

To: The Assistant Secretary John Berry  
c/o Document Management Unit  
The Department of the Interior  
From: Kawika Gapero/Chair.  
Hawaiian Homestead Applicant Organization  
Hui Kako'o Aina Ho'opulapula  
Re: Reconciliation Meeting east/west Dec 11, 1999  
Today's date: Nov 21, 1999

Aloha Mr. Berry and Van Norman,

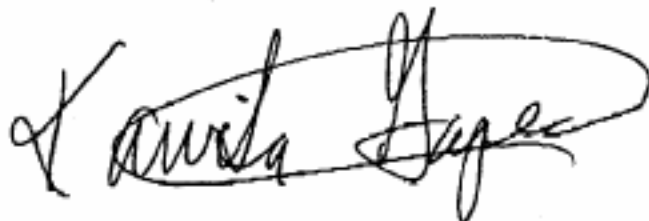
My name is Kawika Gapero. I am the Chairman of Hui Kako'o aina ho'opulapula an organization that was formed in 1993 to represent all applicants on the Department of Hawaiian Homelands waiting list. Our current wait list population is about 20,000. Our mission is to help in the process of expediting Hawaiians on the land.

Hui Kako'o would like to be a part of the panel to present testimony on Housing for Hawaiians. We have met with DOI and DOJ this past summer in Washington in concerns of the S.225 Native Hawaiian Housing Bill and will be there in January to present more testimony in hopes of passage of this needed housing bill for Hawaiians.

We are hoping to give you more of an insight on the problems and needs of housing for Hawaiian. We have gained ground but the process has been slow and many more Hawaiians have been dying waiting for adequate housing. I can go on and on about the issues and I'm sure both the DOI and DOJ has heard many a testimony on this. Hui Kako'o is hoping to be a part of the process come December 10th, at the east/west center. We are looking forward into seeing you soon...Aloha!

Kawika Gapero/Chair..Hui Kako'o Aina Ho'opulapula

Name of Organization: Hui Kako'o Aina Ho'opulapula  
Mission: Is to help in the process of Expediting Native Hawaiians onto the Homelands.  
Our address: 1632 Hart St. #147 Honolulu, Hawaii 96817  
Phone: 1-808-833-0100 E-mail kaf@hgea.org  
We would like to address Native Hawaiian Housing



*NO ANSWER  
TO JERRY  
FOR DOW  
N  
[unclear]*

Leilani Lee Gilfoy  
4188 Keanu Street #2  
Honolulu, Hawaii 96816-5527  
E-mail: gilfoydiv@earthlink.com

22 November 1999

U.S. Government, Department of the Interior  
c/o Mr. John Berry, Assistant Secretary  
1849 C Street, N. W.  
Washington, DC 20240

Subject: Reconciliation/Reparation for the Indigenous of the Hawaiian Islands & their descendants as pertaining to the complicity of the U.S. Government in the illegal coup de' tat of its kingdom.

My name is Leilani Lee Gilfoy. I am of Hawaiian, Chinese and German ancestry. Of the three ancestries, I am more than fifty percent Hawaiian through both my mother and my father's genealogy. I am here to testify on behalf of my family and all "Kanakan Maoli" aboriginal Hawaiians. Ample evidence has been provided to the Supreme Court and the Hague regarding the deliberate confiscation of our human rights through the illegal overthrow of Queen Liliuokalani and the subsequent control of our education system, our cultural system, our lands, our language and our religious beliefs.

My great grandfather, David Kaluhikaopolupolu Peke, changed his name to Baker because he was taught by the Missionaries that it was better to have an english Christian name. This was part of the way that our people were taught that in order to be proud it was better to loose their Hawaiian names in exchange for an anglo-saxon name in order to be accepted in the new social structure that was being introduced throughout our islands. Unknown to my great grandfather this was a part of a conspiracy to commit genocide of our people. If your children and your childrens children carry a name belonging to another culture, and not that of their own ancestors, then they will not seek to preserve and maintain their ancestral origins. This was evidenced by the fact that my great grandfather named his son George Washington K. Baker. Obviously the value of American culture was emphasized rather than the true history of the Hawaiian people in order to have such an influence. The only tie that I had to trace my genealogy was through the names of my great great grand parents who both were full blooded Hawaiians and carried Hawaiian names. In my case I only had to trace two generations back. There are many who have had to go back much further in order to prove that they are the descendants of the original Hawaiian people. The purpose for having to prove our ancestry is so that those of us who are left will not loose the land that is so vital to our culture and our continued existence as a culture of Hawaiian people.

I beleive that as a result of the lose of revenue and resource that have evolved throughout our islands over more than 150 years, the issue or retributions should be immediately addressed in terms of real monetary gain. And as to the dispute over the Hawaiian land, the issue should not even be on the table for discussion. The "kanaka Maoli" own the land.

This testimony is submitted with the prayer that you will hear, listen and seriously attend to this matter and that the Hawaiian people will also continue to seek the results that will bring an end to the discrepancies that have led to this letter.

Respectfully submitted



Leilani Lee Gilfoy

**ULLICO**

FAX Transmission

From: *John GOEMANS*Date: *12-20-99*

To:

Time:

Company: *Intell John Berry*

FAX #:

Message:

*FYI re: recent Hawaiian  
"Revolutionary Hearings"**202 962 8896*

VOICE: FAX: 202-682-7932

111 Massachusetts Avenue, N.W., Washington, D.C. 20001



East-West Center  
University of Hawaii  
August 22, 1998

Statement of John W. Goemans, Esq. to the  
Hawaii Advisory Committee of the  
U.S. Commission on Civil Rights  
(by audio conferencing from Washington, DC)

Re: Status of Native Hawaiian Civil Rights Five Years After the Passage of  
Public Law 103-150

I. Introduction

I am requested to address the Civil Rights implications of PL 103-150, the so-called Apology Resolution. I can say categorically that those implications were, at the time of the Resolution's adoption and are today, -- Disastrous. What we can see, now, increasingly clearly, many in Congress anticipated five years ago. Senator Gorton of Washington, speaking for those prescient legislators stated, "It divides the citizens of the State of Hawaii who are of course citizens of the United States into two distinct groups - Native Hawaiians and all other citizens." He observed that Hawaii is the single multi-ethnic community in the entire world in which a multitude of people from many other backgrounds live together in peace and friendship. He saw Hawaii as an example to the world. He lamented however that this Resolution was the beginning of division among the peoples of Hawaii. He quoted Abraham Lincoln regarding "the true American heritage that all men are created equal and deserve equal treatment." That heritage he saw as being undercut by this divisive Resolution. Likewise, Senator Danforth of Missouri calling attention to the motto carved in marble in the Senate Chambers - E Pluribus Unum - from many, one - decried the race discrimination, bigotry and divisiveness inherent in this Resolution.

I moved to Hawaii fresh out of Law School the year 87% of the people of Hawaii voted to become the 50<sup>th</sup> State - 1959. I was attracted of course by the physical beauty of the Islands but also, and more importantly, by its multi-racial society and its potential to lead the way for Americans and the world toward the illusive goal of social harmony. There was not then nor is there now a majority race in Hawaii. That for me was its charm and potential. That potential is now destroyed. Over time, beginning with the State Constitutional Convention of 1978, a stream of governmental action - State and Federal (PL 103-150 being only a point on an unfortunate continuum) has systematically created a special class of citizens with rights and privileges denied citizens not of that class.

II. The Effects of PL 103-150 on the Civil Rights of the Citizens of Hawaii

Enough time has passed since the Resolution's adoption to assess its effects. It has been used to legitimize past governmental action singling out members of the Hawaiian race and also to serve as authority for yet more such action. It is part and parcel of the whole universe of racial preferences existent in Hawaii and it is inseparable therefrom.

It may be difficult for other Americans to accept, but what's been created in Hawaii, during the last two decades, is a place where if you are a member of a particular race

You can get discounts from certain stores and service providers

You can attend the University without paying tuition.

You can get loans not available to other races

You alone can attend certain public funded classes

You can be preferred for public employment

You can get free health care not available to your non-Hawaiian neighbors

You have had one of the 8 Hawaiian Islands part of the public lands of

Hawaii, by Statute committed to the ownership and control of yourself and others of your race

You get special rights on private land not owned by you and to public waters and other natural resources of the State

You have the right to vote in certain State elections which right is specially denied your fellow citizens of other races

Interestingly if you are 50% Native Hawaiian or more you have access to \$1 billion of public funds and over 200,000 acres of public land dedicated solely for your benefit and to the 20,000 or so other 50%ers.

All of these preferences are in certain violation of not only the Federal and State Constitutions but of the gamut of Civil Rights legislation enacted since the Civil War.

And it isn't just governmental action which is objectionable. For instance, there exists in Hawaii a public trust with some \$10 billion in assets. As a public trust its beneficiaries are the citizens of Hawaii. That trust operates educational institutions, admission to which is strictly restricted by race in direct disregard of U.S. Supreme Court decisions concerning race discrimination in education. And each year that trust illegally claims exemption from State and Federal taxation in violation of IRS regulation and Civil Rights law.

The Apology Resolution itself has been used or cited in various context to further the Alice-in-Wonderland environment which is modern Hawaii.

For instance:

- to challenge traffic citations and criminal prosecution
- to avoid mortgage obligations
- to justify Court decisions granting extraordinary rights in the private property of others
- as the basis for the proposition that the State of Hawaii is illegal and its laws inoperative

### III. How Did It All Happen?

Underpinning this universe of pernicious nonsense are certain basic MYTHS which have been widely disseminated and are unfortunately accepted as true by many credulous citizens.

First, that Native Hawaiians were deprived of sovereignty upon the overthrow of the monarchy in 1893. In fact full and complete sovereignty reposed in the various monarchs of the Kingdom including Queen Liliuokalani not in the citizens of the Kingdom, as attested to by the Supreme Court of the Kingdom in *Rex v Booth* (1863). No Hawaiian citizen had any claim to sovereignty until the establishment of the territory of Hawaii in 1900 when citizens of the Republic of Hawaii became subject to the U.S. Constitution which reposes all sovereignty in the people.

Second, that Native Hawaiians had land stolen from them in 1893. In fact, any Native Hawaiian who owned land in Hawaii in 1893 had a deed thereto which was most probably recorded in the Bureau of Conveyances and that deed was in no way affected by the overthrow. Lands transferred in 1893 to the Republic of Hawaii and in 1898 to the U.S. government in trust for the inhabitants of Hawaii were the public lands of the monarchy not the property of any individual, group or race.

Third, that Native Hawaiians are Native Americans. What was annexed to the United States in 1898 was the Republic of Hawaii - a multi-racial foreign nation. None of its citizens were or could become "Native Americans" by annexation of that foreign nation to the United States.

Fourth, a myth created out of the whole cloth by someone somehow to serve as legal justification for the existing Panoply of Preferences is the proposition that collectively Native Hawaiians have been and are VICTIMS - victims of racial discrimination as citizens of the Territory and State of Hawaii. This myth flies in the face of fact. Native Hawaiians were by far the largest voting bloc for the first 50 years of territorial government and effectively controlled the legislature during that period and have served in disproportionate numbers as public officials, Representatives to Congress, members of the judiciary and the legislature. No reasonable case can be made that Native Hawaiians as a group are or have been victims of racial discrimination.

PL103-150 reflects this mythology in its mention of the inherent sovereignty of the Native Hawaiian people and the rights of Native Hawaiians to self determination. The illogicality of the entire exercise is clear when one asks why should the United States apologize to Native Hawaiians - a minority of the population of the Kingdom of Hawaii in 1893 for acts done in furtherance of the Kingdom's overthrow and likewise not apologize to all other citizens of that Kingdom?

#### **IV Where Do We Go From Here?**

Because of the existence of PL 103-150 Native Hawaiian activists believe that their federally acknowledged rights to self determination and self governance will now be realized by Congressional action establishing a Native Hawaiian government. Nonsense, this may be but to a few thousand Native Hawaiians it is all too plausible.

As a Native Hawaiian leader, U.S. Federal Court Judge Sam King, son of a former Governor of Hawaii, recently stated "This (i.e. the Apology Resolution) was essentially a cynical action by an uninterested Congress equivalent to apologizing to George III for the American Revolution. The mischief caused by this ill-considered resolution will plague us for many years."

And so it has! It is time Congress revisited this illogical, non-sensual and divisive legislation.

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**RECONCILIATION PROCESS FORMAL HEARINGS  
EAST WEST CENTER  
DECEMBER 11, 1999**

**TESTIMONY TO U.S. DEPARTMENT OF INTERIOR AND THE U.S. JUSTICE  
DEPARTMENT**

Aloha:

MR. John Berry, Assistant Interior Secretary of the Department of Interior

MR. Mark Van Norman, Director of the Office of Tribal Justice

My name is Ku'umeaaloha Gomes. I trace my ancestry to Keawe of Hawai'i Island, and I am from the Kanuha 'ohana in Kailua, Kona.

The road to reconciliation is paved not only with grieving, forgiveness, and remembering. Reconciliation is more importantly about social justice, and social justice in the form of the redistribution and control of our resources.

Your efforts to set up a Hawaiian Desk in the Department of Interior, are commendable. However that is not enough. The sovereignty of our Hawai'i nation is based on our ability as a nation of people to control our own destiny, our sovereignty, our right to self determination.

Your efforts, speak to how you will continue to tether each and everyone of us Kanaka Maoli. How you, as the colonizing authority will continue to determine how far we move based on how long the rope is that you place around our necks. So, with this rope, we can roam in the pastures you set aside for us to roam in, yet we are still tied to you by this rope.

This is not freedom! We are not free! We are far from independent to be and do as we please, here in our own Hawai'i Nation or internationally!

Public Law 103-150 acknowledges that

"the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum".

If as a colonizing authority, you truly believe what is written in the Apology Bill, and if this process of reconciliation before us now, is a process that you as a colonizing authority take seriously, then why are you representatives of the Department of the Interior and the Department of Justice sitting here?

If this were a true process of reconciliation, a process in which you work to restore justice to a people who have been victimized through your own efforts of colonization, a process in which the only way is to restore all of resources back to us, then should not representatives from your

own U.S. State Department would be here, to do that work?

If it were your own U.S. State Department that was sitting in those chairs, you as colonizing authorities would be making a serious admission for the wrongs that you have done, publicly, and helping those who have colonized, suppressed, and oppressed since you stole our country from us, become the valuable Nation of Hawai'i citizens that we deserve to be.

If this was a true process for reconciliation, you would be continue to hold yourselves accountable for the wrongs you have done, and would take responsibility for contributing to the restoration of our independent Nation of Hawai'i.

If this were a true process of reconciliation, we, Kanaka Maoli, would be sitting listening to you tell us when and how independence for the Nation of Hawai'i would be restored! So, perhaps what we really need here is a Truth and Reconciliation process! You speak the truth to your offenses, then we, as the victims reconcile our differences with you!

In closing, I add my voice to the many who say, we do not want to stand under your umbrella, and get our backsides wet because you take up so much room; we want our own umbrella so we can stay dry! We don't want to continue to be tethered by your U.S. government; we do not want you to lengthen the rope, we want you to remove it, and now is the time! We want our Hawai'i nation restored, we want our INDEPENDENT NATION OF HAWAI'I restored!

L. Ku'umeaaloha Gomes  
2266 D1 Liliha Street  
Honolulu, Hawai'i 96817

# 12 POINTS OF GENOCIDE

-or-

## WHAT ALL KANAKA MAOLI NEED TO KNOW . . . . .

by one of KAMEHAMEHA's descendants in 5+ Lines - A. GORA

- 1) KAMEHAMEHA descendants exist. (See KALEIOKU by Amelia K. Gora at the libraries, UH Bookstore, etc.)
- 2) MATAIO KEKUANAKA, father of KAMEHAMEHA IV & V, Moses Kekua'ina; Victoria Kama'ama; (<sup>daughter of</sup> Panahu) Ruth Kekelikolani; PAALUA (K); KAPENA (K); ALENCHO and adopted Bernice Panahu was married **5** times - last wife was KALIMA/KALIMAKUHI/KAMAHINE (see Bureau of Conveyances Liber 19 page 175, etc.) His descendants exist thru PAALUA (K); KAPENA (K); and ALENCHO (K). (**KSBE TRUSTEES LIED/LIES; DEFRAUDS...**)
- 3) KING DAVID KALAKALA/KEDNI KATU/KALAKUA (K) had children. (See MAKALA the Sleeping Giant <sup>avail</sup> soon.)
- 4) HAWAII is made up of **133** islands. (Ex. Johnson/<sup>island</sup> de KALAMA)
- 5) We are Kanaka maoli and not Native Hawaiians (see 1866 Census and 1890 Census at the Archives.)
- 6) We are wealthy peoples due to WATER and MINERAL rights being raped and mined as nodules and made into space shuttles due to its gold; silver; copper, etc. contents.
- 7) Queen Liliuokalani was not "properly overthrown"! The De Facto Provisional Gov't <sup>①</sup>failed to take over 3 gov't buildings <sup>②</sup>failed to force her to their terms - she SURRENDERED to the U.S. military and handed over the De Jure Kingdom of Hawaii and her INTEREST in lands - others MAINTAIN INTEREST <sup>③</sup>She told the De Facto white businessmen what to do. (Ref: Researchers Information)
- 8) FRAUD is documented in almost all of the Alii Probates.
- 9) Hatred, animosity is documented against all people of color. Sadly, many Kanaka maoli sided with white businessmen.
- 10) Spanish American Wars aided by Americans at Kingdom of Hawaii's expense.
- 11) Court cases are being challenged by descendants NOW, issues ongoing...
- 12) "ALOHA", a facade of TRUTH CURTAILED by UNDERGROUND NUCLEAR CITIES...

11/26/99  
Friday VSK

Aloha / Greetings Senator Akaka,

Your personnel never did contact me to let me know when the dates of the visitors from the mainland were going to be in Hawaii.

Ms. Trask among others are pushing the issue of nation within a nation, a white plantation mentality which would declare Hawaiians / Kanaka maoli to basically be incapable of any decisions, etc. Ms. Trask descends from overthrow Cooper, please correct me if I'm wrong, a young attorney who stood in front of Queen Liliuokalani who told her she was under arrest, a sugar planter who was affiliated with genocide activities and criminal malfeasance along with Sanford B. Dole, Charles Reed Bishop and the Tudd families; James King, grandfather of Judge Samuel P. King who blocks Hawaiian / Kanaka maoli issues, claims in Hawaii. Most of the officials in Hawaii are descendants of the overthrow.

I have prepared my statement and will have copies made to be presented. I have written numerous letters to President Clinton, etc. All letters will be published.

Sincerely, Amelia Pro



Greetings!

My name is Amelia Kuulei Gora, descendant of KAMEHAMEHA (5+ lines); KAUMUALII, King of Kauai; KEKUANAOA, father of PAALUA (K), KAMEHAMEHA IV & V, etc. (3+ lines); NUUANU (K) KAMEHAMEHA'S nephew, who was a Konohiki; AKAHI (W) descendant of KAMEHAMEHA'S youngest brother KALEIWOHI (K); KEEAUMOKU (K); KEKAULIKE (K); KAMEEIAMOKU (K) and KAMANAWA (K) also known as the Royal Twins; <sup>Uncles of KAMEHAMEHA</sup> Am an heir of KALAKAUA/KALAKUA/KEONI KAPU/DAVID KALAKAUA/ King David Kalakaua who had children: KAMAKA and KAOPU/KAOPUMOMONA (K); King Lunalilo/ William Charles Lunalilo; Heir of Queen Liliuokalani aka ALAKAHEHA (W) who married my ancestor MAULILI (K) descendant of KAMEHAMEHA. <sup>(Am half Hawaiian, Japanese (ancestors ruled Japan for more than 300 years); Portuguese; Jewish; Spanish; Norwegian; Apache (part of Geronimo's families); Chamorro, Mex.)</sup>

I hereby state, declare, and adamantly protest the idea, issues of being coralled into an entity likened to the American Indians categories, etc., for the following reasons.

1. I am a subject, a sovereign of the De Jure Kingdom of Hawaii a recognized nation/entity with a separate status apart from the United States which was temporarily halted until the United States made corrections.
2. Queen Liliuokalani surrendered the Kingdom of Hawaii and her personal interests to the United States until corrections were made

due to the aggressive moves of white businessmen, most of whom descended from Protestant missionaries some who were proud of their Mayflower roots who also spread disease, greed, criminal claims, hatred, animosity towards the Indians / American Indians advancing to killing over lands that they deemed were not to be possessed by people of color. Animosity is cloaked by "friendly U.S."

3. The Census of 1866 shows direct correlations to the current census fines (from \$5.00 in 1866 to \$500.00 for the ~~2000~~ census 2000) therefore validating suspicions of U.S. interest in early Hawaii.

4. The fear of Japanese entering San Francisco Bay and that it would take the U.S. more than 10 years to get them out is documented in strategic maps of the Hawaiian Islands; Samoa; and Aleutian Islands printed in the Valor of Ignorance by Homer Lea printed in 1909. The Pacific Cable Company was formed by Hawaii businessmen's sugar planters and those connected to the wrongful overthrow in 1878. (References and information a lien was filed on 12/17/1996 document no. 96-177455 (281 pages) by myself in behalf of descendants and heirs. (see exhibit (outdoors))

I, Amelia KuliGora, protest am currently fighting on court cases, have genocide activities police report ongoing for evidence, and maintain our family claims on all 133 islands, including trust monies, mineral, water rights, etc.

**Robert A. Gould**  
**44-365 Kaneohe Bay Drive**  
**Kaneohe, HI 96744-2664**  
**December 11, 1999**

**Assistant Secretary John Berry**  
**c/o Document Management Unit**  
**The Department of the Interior**  
**1849 C Street, NW Mailstop-7229**  
**Washington, DC 20240**  
**Fax: (202) 219-1790**

**1. Name: Robert A. Gould**

**Address: 44-365 Kaneohe Bay Drive**

**Kaneohe, HI 96744-2664**

**Daytime phone number: (808) 254-5242**

**Fax number: (808) 254-5242**

**E-mail address: gould@lava.net**

**2. Will you be representing a Native Hawaiian organization?**

**yes   X   no**

**a. Please provide the name and mission of your organization:**

**b. How large is your organization's membership?**

**c. Please provide your organization's address:**

**3. Which topic(s) would you like to address: Sovereignty**

**Written testimony:**

**Dear Sir:**

**Sal Weigel's letter in the Friday Advertiser really hit the nail on the head. It's time for a reality check.**

- 1. Any coup, rebellion, overthrow, or conquest is by its very nature illegal. Once a forcible change of government succeeds, and is subsequently able to rule and be recognized by other countries as a legitimate government, it is by definition legal.**
- 2. To make the argument, as Mr. Sai does, that all transactions requiring notaries that took place since the overthrow are void because the notaries lost their license when the government was overthrown is specious and has been deemed invalid by the court.**
- 3. A number of leaders in the sovereignty movement are trying to rewrite history, and are misleading many of their followers by raising unrealistic expectations. Whether their motive is patriotic, selfish, or power acquisition is open to question. I would only ask the followers of the sovereignty movement if they would really like the monarchy back with someone as angry and vindictive as Mililani Trask as queen.**
- 4. To make the argument that a successful overthrow is null and void because it was illegal in the first place would require every government in the world to cease functioning. Since Oahu was conquered by Kamehameha and he overthrew the government on Oahu illegally, the monarchy which he established would therefore be illegal also, if one is to follow the arguments of the sovereignty movement to their logical conclusion. Thus how could it be illegal to overthrow the monarchy if it was an illegal government?**
- 5. The coup that overthrew the monarchy was not a conquest, as was the overthrow of the government of Oahu and Maui by Kamehameha; it was not an imperialistic colonization as was the case in Tahiti, Fiji, Australia, North and South America, and other nations around the world. It was a coup by citizens of the Hawaiian Nation.**
- 6. Native Hawaiians are not in the same situation as Native Americans, because the duly constituted new government of Hawaii requested annexation (indeed, the monarchy had broached the subject), and the citizens of the Territory of Hawaii requested statehood, whereas**

**Native Americans were conquered in war and were parties to treaties that they are attempting to have honored.**

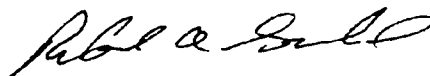
**7. The Crown lands were ostensibly held in trust for the citizens of Hawaii (regardless of ethnic background), and were ceded to the United States as such, but with the added provision that they were to be held in trust for a select group of Hawaiian citizens according to ethnic background. Thus the people of the required blood quantity are actually in greater possession of the ceded lands as citizens of the United States than they were under the monarchy.**

**8. The first distribution of land to anyone other than the alii was started in the great mahele. It was not finished 45 years later when the monarchy was overthrown.**

**9. The process of land distribution under the Hawaiian Homes Act is still unfinished, much to our shame. If everything done by any government body subsequent to the overthrow is illegal, as Mr. Sai claims, then the Hawaiian Homes Act is illegal, as are OHA and all the other programs for the benefit of native Hawaiians put in place by the Territorial, State, and US Federal governments.**

**10. Finally, Hawaiians should recognize that they are citizens of a sovereign nation; the United States of America. As citizens of that nation they have much greater rights and privileges than they had under the monarchy, and much greater rights and privileges than they would have under whatever government would have taken over Hawaii had the United States not annexed it.**

**Sincerely,**

A handwritten signature in black ink, appearing to read "Robert A. Gould", written in a cursive style.

**Robert A. Gould  
(808) 254-5242  
FAX: ext \*\*\***

1. Name: Regina Gregory  
Address: 1704 Anapuni St. #4D  
Honolulu HI 96822

Daytime phone number: 944-7776  
Fax number: -  
E-mail address: hooanana@aol.com

2. Will you be representing a Native Hawaiian organization?  
\_\_\_\_\_ yes ☒ no

a. Please provide the name and mission of your organization:

b. How large is your organization's membership? \_\_\_\_\_

c. Please provide your organization's address:

3. Which topic(s) would you like to address:

December 10, 1999

- ☐ Native Hawaiian Housing
- ☐ Native Hawaiian Health and Education
- ☐ Native Hawaiian Culture and Economic Development
- ☐ Hawaiian Land and Natural Resources

December 11, 1999

- ☐ Reconciliation Process
- ☒ Political Relationship

December 28, 1999

Assistant Secretary John Berry  
c/o Document Management Unit  
Department of the Interior  
1849 C Street NW  
Mailstop 7229  
Washington, DC 20240

Dear Mr. Berry,

I was unable to attend the meeting at the East-West Center; thank you for the opportunity to make written comments. I will keep it short like everyone else did.

A great deal of assets are being held "in trust"--with the most recent addition of the island of Kaho'olawe--in anticipation of the restoration of the Nation of Hawai'i. Thus, the Nation must be restored. I hope you are fully aware of the convention going on right now, part of a long and officially sanctioned process to re-establish Hawaiian sovereignty.

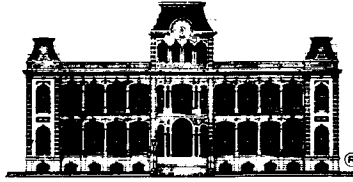
It is not for the U.S. to grant sovereignty, but for us to declare it. Only by recognizing that sovereignty will there be any meaningful reconciliation on the part of the U.S.

Thank you for your continuing efforts in this matter.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Regina E. Gregory".

Regina E. Gregory



THE FRIENDS OF 'IOLANI PALACE

Post Office Box 2259 Honolulu, Hawai'i 96804 Telephone (808) 522-0822 FAX (808) 532-1051

December 17, 1999

The Honorable M. John Berry  
Assistant Secretary for  
Policy Management & Budget  
Department of the Interior  
Interior Bldg., Rm 6130  
1849 C Street  
Washington, D. C. 20240

Dear Mr. Berry:

We were unable to send an official representative from The Friends of 'Iolani Palace to the Reconciliation Hearings on December 10 and 11, however, several members of our Board of Directors were present. Although we did not testify, please include the Friends of 'Iolani Palace in your Manifest of Native Hawaiian Organizations. I have included our Mission Statement which appears in English and Hawaiian.

I enjoyed meeting you after your opening day address at the Palace and hope you will include time for a tour of 'Iolani Palace on your next visit to Hawai'i.

Good luck in your exploration and deliberations.

Sincerely,



Alice F. Guild  
Executive Director

Enclosure: Mission Statement



# Gumapac & Associates

*division of Kalama Enterprises, Inc.*

Pomaika'i Business Center  
16-643 Kipimana St. #15  
Kea'au, Hawaii 96749  
Phone (808) 966-5486  
Fax (808) 966-6032  
E-mail: kgumapac@aol.com

January 13, 2000

Mr. John Berry  
c/o Document Management Unit  
The Department of the Interior  
1849 C. Street N.W.  
Mailstop 7024  
Washington D.C. 20240

Aloha Mr. Berry:

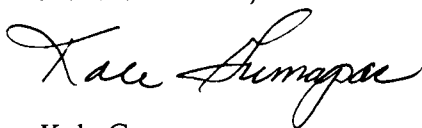
I would like to thank you for the opportunity to share my mana'o (thoughts) with you in finding solutions to the Hawaiian Sovereignty issue. You have heard many hours of testimony as well as read written statements addressing these concerns. I would like to direct your attention to important health matters faced by Native Hawaiians.

It is common knowledge throughout the State of Hawaii that the Hawaiian population is at the top of every disease and sickness category known to man. Hawaiians are dying at an alarming rate from disease and sickness that could have been prevented. Organizations have been set up both by the state and federal government to address these major issues by using a bandaid approach.

I would submit to you "***The Native Hawaiian Health Plan***" that I believe will solve many of the healthcare issues for the Kanaka Maoli. It is comprehensive and revolutionary in its approach. The NHHP is designed so that the plan can be implemented immediately and continue when a form of sovereignty is determined.

The health of the Kanaka Maoli cannot be ignored during this time of reconciliation nor can it wait. Giving self-determination to the Hawaiian people is meaningless if there is no one to govern. The stage is set for the federal government to do the right thing. If you have questions regarding the enclosed "***Native Hawaiian Health Plan***" call me at 808-966-5486.

Mahalo Nui Loa,



Kale Gumapac

November 22, 1999

To: Assistant Secretary John Berry  
c/o Document Management Unit  
The Department of Interior  
1849 C. Street N. W. Mailstop -7229  
Washington, D.C. 20240

From: Luana Elizabeth Akana Palapala Hamakua  
P.O. Box 1283  
Kaunakakai, Hawai'i 96748

RE: Ka 'Ohana Education Concept

These values with humbleness and simplicity must be taught in our society today in order for the process of reconciliation to happen.

Respectfully submitted,

*Luana Elizabeth Palapala Hamakua*  
Luana Elizabeth Palapala Hamakua

*Audrey May Ilona Palapala Basques*  
Audrey May Ilona Palapala Basques

Alfred Allison Palapala

*Alfred Allison Palapala*

## Ka 'Ohana

The 'ohana in our household consisted of na makua, na keiki, sometimes tutu and aunties and uncles, at least that's how it was when I grew up in the Palapala household.

Our makua stressed a lot of values which in turn was important to pass down to our children and we see it carried on in the raising of their children. Values of ho'ihi or to respect the value of life was practiced. Respecting people especially those that were older, respect for the 'aina which gave us sustenance, respect for all things which surrounded us. Respect and ho'omaika'i or gratitude was practiced a lot in our home. It was important to be thankful in everything received. The older children helped out in the raising and caring of the younger siblings while dad worked and mom took care of the home. There was 8 of us children and with a full dwelling meant for us to hana with great meaning, working in lokahi and laulima meant that the hana would be done. To hana without being asked, to take care of kuleana even when it meant doing it alone whether around the house when working the 'aina or within the community was important. We were never known to be lazy workers. Everyone of us while growing up had a hana and by kokua were we able to learn of service to our extended 'ohana and neighbors. Ho'omana was important to our makua in the raising of us children, we went to church every Sundays, amongst other church activities that we were involved with. I remember the values of nana, ho'olohe, pa'a ka waha, a'o and than ninau or ask the questions when needed to perform any hana was also practiced.

We had and still have a great aloha for mele, our family loved music and this I saw growing up and can be seen in my children and in their children. It was my parents who made time to display instruments and singing within our home. I remember whenever there was music being shared within the immediate as well as the extended 'ohana meant such happy moments I will never forget.

It was my father who showed us great ahonui or patience. If there was any discipline to be done, it was done with caring and guiding words. It was mother who kept us going on the right track even if it meant a little physical discipline. As children, we had our share of being kolohe but we strived really hard to make choices that would preserve our family's good name.

Aloha was our foundation. It was our strength to strive as an 'ohana as well as a comforter when we were at our lowest. It's deep meaning of love was always held with high regards and pride. Possessing aloha meant loving not only your 'ohana but recognizing and loving your neighbor as well as the visitor. Aloha meant living in harmony with everything and everyone involved. Because of imperfect situations in life there were times of disharmony and when there was an imbalance within the 'ohana, it was important to make things right. My mother was strong with keeping things in balance and so the practice of ho'oponopono was a way of making the path smooth again.

*The Ki'alahi Pamehana  
Lucina E Palapala Hamakua*



### *Caveat to the testimony of David Donn Maika'i Hana'ike*

*This testimony presented before this commission is given in the spirit of aloha. It is an expression of our sincere desire to alleviate as much of the present woes of the native Hawaiian people as possible within the current political and legal framework in the United States. However, the submission of this statement should not be misconstrued as a concession to the commission or to its authorizing body as possessing the proper authority to dispense the question of reconciliation for the historical and contemporary wrongs committed against the native Hawaiian people or of the Hawaiian nationals.*

*The question of U.S. delinquency in Hawai'i and of the remedy appropriate to such injuries is a matter not confined to the purview of this commission or of the U.S. government. The consequences of a state committing an act of aggression against another state is a matter of international import to be seen through the perspective of international standards of conduct. The obligations of an invading state in violation of international law to the invaded state and its people is a matter of international import. Thus, we make this special appearance before this commission, reserving all questions of jurisdiction for an as yet, unidentified independent, impartial body.*

*Therefore, I present the following testimony to this commission with the limitations expressed in this caveat.*

Although I belong to several Hawaiian organizations, my thoughts are my own and do not represent those of the organizations that I belong to.

Reconciliation is an important part of the "healing process" that must come between two parties where one party has been "wronged" by another. In this case, the United States acknowledges its role in the illegal overthrow of the sovereign nation of Hawai'i in 1893, and wishes to commit to a process of reconciliation. What concerns me is the fact that the reconciliation process is being handled by the Department of the Interior, which has jurisdiction to situations that arise through land under the domain of the United States at the time of the transgression. The overthrow of the sovereign nation of Hawai'i was in international waters, thousands of miles from U.S. domain, and thus, the body that should be receiving this testimony should be the Department of State, which has the domain to conduct international policy.

Reconciliation must also include all transgressions that need to be reviewed. In 1993, Public Law 103-150 was created by the United States in hopes of creating dialogue between itself and native Hawaiians. The reconciliation process actually must include all sovereign Hawaiian

nationals, and not only native Hawaiian people. Being a sovereign nation with nationals other than native Hawaiians, Hawaiians should include all those who signed allegiance to the Queen.

Reconciliation must be public. The United States must allow the international arena know of its wrong-doing from 1893 up to the present time. This report to the public must inform all that was done, what was kept from the Hawai'i nationals, the U.S public and the international political arena. This public announcement should also include all announcements of the use of force in 1893, the illegal Joint Resolution of 1898, the taking of national lands for military/government purposes, and all present day public law that would not be appropriate due to the illegal status of the annexation of an internationally free nation. The U.S. must also address all of its wrongs in accordance to international law, and determine with the international courts what can be done to rectify the wrongs with the sovereign nation of Hawai'i. With this public and international admission of guilt beyond Public Law 103-150, the U.S. will truly start to announce and accept responsibility of its erroneous actions.

Reconciliation must allow for all Hawaiian nationals to determine their own fate by the "self-determination" process with the total support of the transgressor (United States of America). It is the moral and international obligation of the transgressor to assist in any way possible the process of reconciliation and reconstruction of the form of government that was abused and the assistance in the construction of any form of government that the party so desires.

The United States must start to lay the foundation for all international and national support systems to assist in the repair of past wrongs committed to the sovereign nation of Hawai'i, commit itself to the right of the people of the nation of Hawai'i to "self-determination", and support all systems necessary to allow these people the type of governance that they desire. In addition, all properties seized during the overthrow should be returned and all treaties (old and those to be made) acknowledged and honored. This will allow for reconciliation to be "pono" (just).

David Donn Malka'i Hana'ike  
Prince David Kawananakoa Middle School  
Science Educator, NEA, NMSA, HSTA, Science Affiliate/HSTA, HaSTA  
Delegate, 'Aha Hawai'i 'Oiwī



**Patrick W. Hanifin**  
**4215 Puulani Place**  
**Honolulu, HI 96816**  
**Phanifin@hula.net**  
**(808) 734-6027**

cd  
Hanifin  
no request

LSK

November 2, 1999

Assistant Secretary John Berry  
c/o Document Management Unit  
The Department of the Interior  
1849 C Street, NW Mailstop-7229  
Washington, DC 20240

Re: Invitation Soliciting Public Comments Regarding Hawaiian Issues

Dear Mr. Berry:

As a native-born citizen of the State of Hawaii, I would like to submit the following written comments concerning your Department's so-called "reconciliation efforts" concerning "Native Hawaiians" as described in the announcement published at the Department's web site, [www.doi.gov/news/991020.html](http://www.doi.gov/news/991020.html). Although you and your colleagues are motivated by good will, "reconciliation" could all too easily become another code word for demands for special privileges for a racially defined group. Such special privileges would be antithetical to democracy and contrary to history.

As you will find during your visit, the currently fashionable slogan is "sovereignty" and your invitation, apparently limited to persons claiming to be "Native Hawaiian," is likely to elicit loud and lengthy comments from a range of self-proclaimed "sovereignty groups." I do not represent any group and I do not want to take up any of your time in the public meetings. However, as someone born and raised in Hawaii, I offer some anticipatory comments on what you will hear during your visit. I also enclose an article I wrote some years ago when the fashionable slogan was "reparations." The article provides citations of authorities for the historical facts that I summarize in this letter.

### **How "Sovereignty" Is Used**

Words mean what they are used to mean. Because "sovereignty," is used inconsistently, it can have no single, consistent meaning. Indeed, its vagueness is its value: people who agree on nothing else can agree to use "sovereignty" as a slogan and so can appear to agree on substance (until they begin to discuss specifics). If someone could decree a precise definition, everyone else would abandon "sovereignty" for something vaguer.

Although irremediably vague, "sovereignty" is not utterly meaningless. Its

varying uses in the current debate are contradictory precisely because they point to contrary proposals regarding the same subjects. A rough checklist of the word's uses suggests two broad themes: individual freedom of choice and collective political power.

Individual freedom of choice encompasses freedoms of thought, expression, religion, and association. It includes the right to try to learn a culture and a language and so make them your own. The federal and state Constitutions guarantee all of these rights equally to everyone. However, the right to choose does not entail the right to be subsidized. I may desire a lifestyle that requires buying things I cannot afford, like a mansion or a farm, but I have no right to force you to pay for my choices with your taxes.

The second theme, political power, includes the right to vote, to run for office, and to try to persuade others about political issues. Every adult citizen of the United States and of Hawai'i has these rights. In a democracy, sovereignty in this political sense is shared. No one can be all-powerful unless everyone else is powerless. Each of us is sometimes in the minority, unable to imagine how the majority elected such an idiot or enacted such a foolish law. But with raucous debate, together we exercise the political power of sovereign national and state governments. Hawaiians, like their fellow citizens, participate in these public debates, including debates about how to use public land.

Thus, in our individual and collective exercise of self-government, we are all sovereign now.

### **We All Have Sovereignty But Some Demand Exclusivity**

Those who demand something more for themselves are really demanding exclusivity. Their basic problem is arithmetic. Having defined themselves as a minority, they can seize power only if they can somehow disenfranchise the majority. The competing advocacy groups have contradictory plans for doing this. Some want to tear Hawai'i away from America to form an independent country. Some aim to create a government modeled on those of certain American Indian tribes. Others prefer a special state agency with restrictions on voting and holding office. Each of these plans would give the new minority government exclusive power over some or all of Hawai'i's public lands and funds.

All of these plans would restrict voting and holding office to an exclusive, hereditary group. The competing factions split over how to define the group that will be treated better than everyone else.

Some definitions are exclusively racial. The privileged group could be limited to "Native Hawaiians" in the sense specified in the Hawaiian Homes Commission Act, that is, those having at least 50% Hawaiian ethnic ancestry. Other proposals discriminate in favor of a class of persons descended from the inhabitants of Hawai'i in 1778 (the year Captain Cook arrived). "Descendants of the inhabitants of Hawai'i in 1778" singles out a racial or ethnic group as clearly as does "descendants of the inhabitants of sub-Saharan Africa in 1492."



Other definitions add political criteria to the racial criteria. One plan extends the privileged class to include persons of other races who pass a test of political correctness defined by members of the racial elite. In a democracy the people choose the government, but under this plan the government chooses the people. Those who disagree with the government would be stripped of their citizenship and would become aliens in their own homes. Another proposal defines a hereditary aristocracy consisting of all descendants of the citizens of the Hawaiian Kingdom in 1893. That excludes the descendants of the Asian immigrants who constituted most of the Kingdom's population in 1893 but who were not citizens. It also excludes everyone whose family arrived here later. Racial discrimination combined with political discrimination is still racial discrimination. Recall how the government imprisoned Japanese Americans during World War II because of their ancestral and "political" connections to an enemy country.

Discrimination based on ancestry is generally conceded to be undemocratic and unfair. However, the advocates of various versions of "Hawaiian Sovereignty" are not racists. They sincerely believe that there are nondiscriminatory justifications for privileging "Hawaiians" (however defined) over all others. There are five common justifications but none of them works.

### **Five Failed Arguments for Exclusivity**

The first common justification is that the overthrow of the monarchy in 1893 and the annexation of Hawai'i to the United States in 1898 were undemocratic because they were not supported by the majority at the time. Historically, this was true: annexation did not have the support of a majority of the people in Hawaii in the 1890s. This argument appeals to the democratic principle of majority rule, a principle that was not followed anywhere in the 1890s but that should have been.

However, if the principle of majority rule should have been followed then, it should be followed now. The principle of majority rule cannot justify minority rule by the descendants of people who were in power long ago. No one is entitled to extra power because some of his ancestors once belonged to a ruling class. For instance, the heirs of French King Louis XVI are not entitled to the land and power he lost when he lost his crown and head.

The second justification is, in essence, "We were robbed." The argument is that, before 1893, the lands of Hawai'i belonged to the Hawaiian people. Overthrowing the Kingdom of Hawai'i with the assistance of American troops, a small faction seized power and later transferred the Government Lands and Crown Lands of the Kingdom to the United States. In justice that stolen property should be returned.

But everyone who was involved in the events of 1893 and 1898 is dead. The exclusive powers demanded in the name of "Hawaiian Sovereignty" would go to people who were not alive then. This is not a matter of inheriting private property. It is a claim for hereditary political power. Private land was not seized as a result of the Revolution. Individual ethnic Hawaiians and the group of ethnic Hawaiians did not own the Government Lands; the government did. For instance, an individual could not have sold

or willed a personal share of the Government Lands to another. Nor could he have excluded anyone from any part of the Government lands. Nor did ethnic Hawaiians, individually or as a group, have any special legal privileges to the use of those lands. As the term "sovereignty" suggests, what was at stake in 1893 was political power over the government and hence over the Government Lands and the Crown Lands (which had come under control of a government commission in 1865).

Most ethnic Hawaiians had no power to lose in 1893. They were a minority in Hawai'i and most of them could not even vote. An oligarchy of the richest men governed the Kingdom. Being Hawaiian in the ethnic sense was neither necessary nor sufficient to be a subject of the Kingdom and being a subject was neither necessary nor sufficient to be a voter. All who were born in Hawaii were native-born subjects of the Hawaiian Kingdom, no matter where their ancestors came from. Naturalization was offered to everyone who stayed at least two years and promised to obey the law. Immigrants who did not wish to give up their original citizenship could become "denizens," entitled to the full rights of subjects, including voting and holding office if they met the other qualifications for political rights. However, most subjects were denied the right to vote on grounds of gender, race or poverty.

Political power is still at stake today. People alive now have a democratic right to decide by majority vote how government land should be used now. The "we were robbed" argument does not justify hereditary political power for a minority. No one deserves more than equality.

The third justification draws an analogy to American Indian tribes. It contends that, as a general rule, all "Native Americans" have a right to tribal land and to tribal governments with political rights restricted to tribal members. Hawaiians are "Native Americans." Therefore, Hawaiians have a right to form a racially restricted government and to claim some land exclusively for themselves.

However, there is no such general rule. What each Indian group has is a matter of historical happenstance. Some have tribal governments and large reservations while others have nothing. One thing that American Indians do seem to share is a conviction that they have been mistreated. Indian law is grounded in nineteenth century racial discrimination. The special laws applying to Indians are not the result of special constitutional privilege for Indians but of special "plenary" power of Congress over Indians. This was the power that Congress used to order Indian tribes rounded up at gunpoint and confined to reservations. Reclassifying ethnic Hawaiians as an "Indian tribe" would jeopardize their right to equal protection and would leave them at the mercy of any future congressional majority.

Moreover, the analogy to Indian tribes does not fit the history of Hawai'i. Hawaiians were never organized as a tribe. The Kingdom of Hawai'i was not a tribe. Tribesmen are tribesmen because their parents were tribesmen. But under the laws of the Kingdom, anyone born in Hawai'i was a citizen of the Kingdom, no matter where his family came from. The annexation of Hawai'i was not the incorporation of a tribe into

the United States with a racially defined government intact. Unlike Indian tribes on reservations, Hawaiians do not live in segregated communities that could make and enforce laws without affecting others. Neither policy nor history support extending the racially discriminatory rules of Indian law to Hawai'i by inventing a "Hawaiian Tribe."

Fourth, some argue that the Annexation and the overthrow of the Kingdom violated international law. Therefore, the United States should return power to descendents of those who held power under the Kingdom.

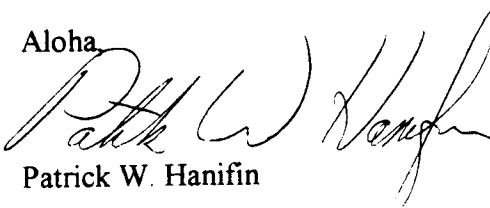
However, "international law" is an oxymoron. Each country is sovereign in the sense that it is not bound by any law that it does not accept (subject, of course, to being attacked if it angers a more powerful country). Furthermore, because there is no world government with effective power to make, interpret, and enforce international law, anyone can argue anything about it without fear of being proven wrong.

Even if international law arguments could prove something, we would have to look back to the 1890s to determine what was "illegal" at the time of the overthrow and Annexation. It is futile to try to squeeze late-twentieth century democracy into nineteenth century international law. In the 1890s the rules of international law, to the extent there were any, were made by the colonial empires and amounted to the law of the jungle: big fish eat little fish. Most governments did not even pretend to be democracies and none would have qualified by today's standards. The legitimacy of a government depended on its power to control its territory, not on its popularity. The government of the Republic of Hawai'i, although undemocratic, maintained effective control, was recognized by the major powers, and so could make a binding agreement for annexation.

Finally, some advocates cite statistics showing that on average ethnic Hawaiians have less money and more disease than some other ethnic groups. From this they conclude that the government should give all ethnic Hawaiians land, money, and political power. But why should well-off Hawaiians get special benefits while poor and sick members of other groups do not? This argument does not justify handing out exclusive benefits to a group defined by ancestry.

Reconciliation cannot be achieved by racial discrimination, however well-intentioned. Nor can it be accomplished by offering to pay anyone who honestly but inaccurately believes that he has been wronged. Having unnecessarily conceded both historical facts and moral principle, the government would face ever-escalating demands for more money, land, and power. There is no valid justification for awarding any group defined by race or ancestry any exclusive privileges or powers that are denied to other citizens. Hawaiians, along with the rest of us, are sovereign now. No one can fairly ask for more.

Aloha

A handwritten signature in dark ink, appearing to read "Patrick W. Hanifin", written in a cursive style.

Patrick W. Hanifin

①

Tammy Harp  
PMB 791  
843 Wainee Street F-5  
Lahaina, HI 96761  
12-11-99  
East-West Center  
42

Mahalo Ke Akua.

I am a 7<sup>th</sup> generation Lahaina/West Maui resident.

The U.S. signed Kaho'olawe over in '94 (May).

On the NOAA Nautical Chart - redesignate the submerged submarine operating area along Kaho'olawe out to the 3 mile boundary.

WESPAC Council is a federal agency responsible for creating fisheries management policies for Hawaii, American Samoa, Guam & the Commonwealth of Northern Marianas.

In June at the Council's 100<sup>th</sup> meeting - my husband Isaac requested the Council Chairman to resign the Chair position due to the Chairman's repeated violations of federal fisheries regulations.

Isaac also requested the resignation of the Council's Executive Director for her actions in providing misleading and false information to persons requesting information from her.

In an act of retaliation against Isaac, the Executive Director and Council Chairman removed Isaac from his Advisory Panel positions.

Isaac is the only person dedicated and crazy enough to serve on all 6 Advisory Panels.

Prior to the 100<sup>th</sup> meeting the Chairman removed Isaac from his position as Chairman of the Native and Indigenous Rights Advisory Panel during an active meeting.

③

The actions taken by the Council's Executive Director and Chairman are contrary to their policy and procedures document.

Isaac submitted a Freedom of Information Act request to the Department of Commerce for the portion of the minutes of the Executive Committee meeting relating to his removal as a member from the 6 Panels.

The Freedom of Information Act request was submitted months ago and according to Federal law - a response must be provided within 20 days.

No response has been received to date.

Mahalo.

P. 05

Kumai Harris & Mahealani Martin

November 22, 1999

To Dept. of Justice /Dept. of the Interior  
Testimony for hearing 12/10/12/11/1999

We speak today, first as mothers, second as women concerned for our communities health and well being, and finally as a Native Hawaiian. As a concerned member of this community I am concerned for our Hawaiian community.

Native Hawaiians suffered near fatal, physical, psychological, spiritual and cultural devastation since 1778. That devastation continues today, and if left unchecked will result in the extinction of the Hawaiian race along with our cultural and spiritual traditions.

Hawaiians have been victims of racist policies throughout our lives, I am disgusted with the continued violation of our rights and the perpetuation of a system that allows our children and family to suffer.

It is time we stopped worshipping the god of economic development and returned to our traditional Ohana style values, clean air, food, water, health and simplicity.

Contrary to popular lore we are not simple minded primitives. We have a long history of being a very sophisticated society, robust in health and quite capable of self determination. We are organized and prepared to implement our plan for independence.



*Kamehameha Crown Band Corporation*

*1475 Akialoa Place*

*Kailua, Hawaii 96734*

*(808) 261-7800*

*Day 2  
Reconciliation  
Process*

*Assistant Secretary John Berry  
c/o Document Management Unit,  
Department of Interior, 1849 C St.,  
NW Mailstop-7229  
Washington, D.C. 20240  
Fax (202) 219-1790*

*November 3, 1999*

*Dear Mr. Berry,*

*On behalf of our non-profit corporation, I submit this our written testimony. It must be clear by now that the Hawaiian people want and need a form of self governance and sovereignty. But it is equally clear that the vehicle by which over 200 Indian Tribes have successfully used to obtain Federal Recognition, is not the same for Hawaiians. The law that we are referring to is 25 CFR. We are perplexed by the fact that this federal law pertains only to the U.S. Continent of 49 States, 25CFR83.3 (a) and totally ignores the State of Hawaii. We are equally amazed by the fact that this same law only addresses Indian Tribes and not Native Americans or Indigenous Peoples concerns. We ask you Mr. Assistant Secretary, are we a part of these United States, or not?*

*The answer of course being emphatically yes. At present we are lobbying our Hawaii Congressional Delegation to submit to the Congress the changes that need to be made to this unconstitutional law. We who are the direct descendants of King Kamehameha the Great, his father Keoua and eldest brother Prince Kalokuokamaile are certain that once these changes have been implemented that we, along with the Hawaiian people will be able to more than adequately fulfill the remaining mandatory criteria for Federal acknowledgment.*

*It has always been our understanding that upon Statehood the 50<sup>th</sup> State would automatically inherit and enjoy equal protection under all existing federal laws. It must have been a gross oversight on the part of Congress and as well our State Congressional Delegates, of which both Senators are members of the Indian*



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**Affairs Committee. No one wants to deny native Hawaiians their civil liberties any more or less than what has already been granted to native Indians or native Alaskans.**

**Furthermore, in reference to the 1993 Apology Bill passed by Congress and signed by the President, the authors of the Bill apologize only to the Native Hawaiians. What of the descendants of the heads of State? Namely the Kingdom of Hawaii's Legislative Body, Queen Liliuokalani and we who are her living descendants. Is not an apology of over one million acres of Crown Lands that were confiscated, the titles of which were never quieted, then redistributed to the State of Hawaii as Ceded Lands not warranted in this Apology Bill? Moreover, we are of the opinion that this Apology Bill in itself is Unconstitutional. In essence the President and Congress have admitted to gross violations of National and International Laws without penalty. Are we to believe that the President and Congress are above the law? Our only intent is to see that justice is served, and that the Civil Rights of our Hawaiian people are restored. The Hawaiian people have patiently waited for all these years, it is now time to address these issues to bring about a peaceful and equitable solution that everyone in the "Land of Aloha" can live with.**

**We request to present our groups views as stated above on the second day Dec. 11, 1999 at the East West Center. Please feel free to contact our offices should our request be granted.**

**Respectfully submitted,**



**Prince Phillip Aila Hatori III**

**President KCLC for:**

**Lunalilo Elua, Mo'i**

**cc: Senator Daniel Inouye  
Senator Daniel Akaka  
Congresswoman Patsy Mink  
Congressmen Neil Abacrombie  
The Honolulu Starbulletin  
The Honolulu Advertiser  
Mid-Week  
Daniel R. Foley, Attorney**

# What is the Hawaiian Law Foundation?

*The Hawaiian Law Foundation is built on the foundation of Hawaiian Law, enacted prior to January 17, 1893. We are a grassroots group working in Kona through the judicial process to examine and document the possible implications of the facts disclosed in United States Public Law 103-150 and many other historical documents and case law. Our strategy has been to examine and assert the facts and law, and see what happens. What has happened is the courts continue to delay ruling because they are concerned about the "implications" of the facts and law presented.*

*Our goal is not create or be part of any "sovereignty" group, we only aspire to follow and assert the applicable laws according to "Hawaiian National Usage" and by "Hawaiian Judicial Precedent" relating Hawaiian rights and law.*

*It is our understanding that once these rights and laws are brought out, they will start a process that will no longer require groups like the Hawaiian Law Foundation or the many groups advocating Hawaiian rights.*

Many of the following ideas have been around for years, it is now time to move forward with them.

## 1. Does anybody really know what are Hawaiians rights?

Opinions. Opinions, everyone has one!

While there are hundreds of opinions on what should be done in Hawaii, its time to get impartial professional legal opinions and evidence on what are Hawaiian rights related to United States, Hawaiian, and International Law. Professor Boyle and others have given their opinions, all of which have been in-favor of self-determination for Hawaiians. The problem has been that as of this very moment, none of the groups working on self-determination have a blueprint of how to achieve, and what the steps are required to proceed and obtain self-determination. While some groups may have

their own blueprint to obtain that groups goals, if those methods do not follow the applicable law, they will never be recognized by the United States or any other civilized Nation.

### Impartial, International, experts

The *Hawaiian Law Foundation* has been working with a law firm based in Washington DC. In October of 1999 *The Hawaiian Law Foundation* funded the travel expenses for a "fact finding mission". This Law firm is ready, able, and willing to help us locate the experts in the related areas of expertise needed to fully explore what Hawaiian rights are. If it is not this law firm or another one, we need to get outside opinions on Hawaiians rights according to the applicable laws of Hawaii, the United States and International norms.

These expert opinions would not only help Hawaiians understand what the steps are to move forward with Hawaiian self-determination, but could be a method to show local government officials what laws are applicable and what rules they must adhere to.

### No funding, no work!

There has yet to be any report or document available by any impartial entity that shows the Hawaiian people what the steps are, to obtain self-determination. This is mainly due to the lack of funding. The United States Interior Department, United States Justice Department and possible the Office of Hawaiian Affairs should pay to have this impartial, third party report completed and distributed to the people of Hawaii.

## 2. O.J. Simpson had one, why not Hawaiians?

Currently the only entity that has the resources to defend Hawaiian rights is the Native Hawaiian Legal Corp., but they are controlled by Office of Hawaiian Affairs(state of Hawaii). Even in the light of recent rulings by the Supreme Court of the State of Hawaii, these agencies have failed to help adjudicate or Defend Hawaiian political and civil rights that do not fall in-line with the dictates of the state of Hawaii and their political machine.

O.J. Simpson had one of the best legal teams in the United States, he spent millions of dollars. The Trustees of Bishop Estate recently spent millions of dollars defending themselves against removal. The County of Hawaii is spending millions of dollars defending their police department for Fraud.

Hawaiians have no organization, no "Dream Team", no money to assert and properly defend Hawaiian civil, political and property rights.

### A Hawaiian Legal Dream Team for Hawaiian Rights.

The *Hawaiian Law Foundation* is building the "*Hawaiian Rights Legal Defense Fund*", in conjunction with a local church has agreed to sponsor our fund raising needs through their U.S. Non-profit status(501.(c). 3). The *Hawaiian Rights Legal Defense Fund* is being structured as a charitable "Non-Governmental Organization"(NGO). It will not be under state or Federal control, it is International in nature.

E iho ana o luna  
E pi ana o lalo  
E hui ana na moku  
E ku ana ka paa  
wanna o kapine  
E iho ana o luna  
E pi ana o lalo  
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wanna o kapine  
E iho ana o luna  
E pi ana o lalo  
E hui ana na moku  
E ku ana ka paa  
wanna o kapine

The concept is simple, locate the best and brightest legal professionals from around the planet to bring Hawaiian issues into the judicial system, through state and Federal Courts.

### Looking from the outside in, not the inside out!

The people in the *Hawaiian Law Foundation* and all the others groups asserting Hawaiian rights have our opinions and beliefs, but who is willing to let the experts come in and analyze our beliefs to ensure we are pono with Hawaiian and international Law, we are, are you?

### No money no work!

Again the problem is simple the state of Hawaii and its Office of Hawaiian Affairs continue to utilize and control the natural and economic resources of the Hawaiian people. There have and are thousands of Hawaiian activists that must take food away from their families tables to pay for copies, filing fees, etc.etc. etc. with no help from the supposed Trustees for the Hawaiian people the "state of Hawaii" and their Office of Hawaiian Affairs.

### We need millions, no more crumbs!

The *Hawaiian Rights Legal Defense Fund* (or another impartial organization developed) needs millions of dollars to retain the top legal professionals on the planet to assert and define Hawaiian Rights.

## 3. Enforce the Law, Stop the continued violations of Hawaiian human, civil, and political rights.

In 1994 the Supreme Court of the State of Hawaii, citing United States law, has raised questions and doubt if the state of Hawaii's and their Office of Hawaiian Affairs should even be recognized, under current law.

*State v. Lorenzo, 77 Hawai'i 219, 883 P.2d 641 (App. 1994).*  
*A state has an obligation not to recognize or treat as a state an entity that has attained the qualifications for statehood as a result of a threat or use of armed force in violation of the United Nations Charter.*

*The illegal overthrow leaves open the question whether the present governance system should be recognized, even though the illegal overthrow pre-dated the United Nations Charter.*

We have all seen the forced evictions for the past 100 years, and they are still happening today without judicial process. Many of the leaders in the Hawaiian self-determination

process have been arrested, prosecuted and jailed. Many other Hawaiian activists have lost their homes and forced off lands they hold rights that are vested by law.

There is no question that the Hawaiian people have the worst health and economic conditions. There is no question that the United States of America has spent millions of dollars on trying to help the Hawaiian people.

The only questions are is "Where is the money" and "who really spent it" and "why isn't it getting to the native Hawaiians".

### **Enforce the Law!**

The **United States Interior and Justice Departments should immediately investigate** through some sort of independent counsel system the civil, human, and economic abuses by local government officials.

A local complaint system and enforcement system must be developed and work in harmony United States Department of Justice.

## **4. If its broke, fix it!**

There is no help from Office of Hawaiian Affairs for any group or person that does recognize the state of Hawaii and submit themselves to it.

The ineffectiveness of the state of Hawaii (Office of Hawaiian Affairs) acting as "Trustees" of the Hawaiian Islands is documented by the continued decline of Native Hawaiian health, political, and economic conditions, it has not worked in the 20+ years it has been around, this system has and continues to fail the Hawaiian people

It is time to take and agency like Office of Hawaiian Affairs away from the control of the State of Hawaii and its political machine. They have more than \$300,000,000 sitting in the bank that must be utilized to defend Hawaiian rights and improve the Health conditions of the native Hawaiian people.

It may be possible to place Office of Hawaiian Affairs into a "NGO" format under the United Nations or other impartial format. We do not propose destroying Office of Hawaiian Affairs, just place it where the political whims of a select few will no longer have control over it. Office of Hawaiian Affairs has offices and infrastructure, just people who continue to assert their opinions on the Hawaiian people.

## **5. Building Consensus**

### **How can you know what you want, until you know what you have?**

#### **Part of the problem**

Many groups have been working hard for more than 20 years on issues relating to Hawaiian, self-determination, health and welfare, in 1999 the health and economic conditions of the Hawaiian people continue to fall.

With many groups come many opinions and positions, then comes lack of communication and misunderstandings between each of the groups that have been asserting Hawaiian rights. Much of the problems between the groups can be traced to the lack of resources to communicate with other organizations each others goals and needs.

### Possible Solution

In harmony with traditional Hawaiian cultural practitioners a series of gatherings should be held on each of the islands. The traditional and customary process of hooponopono and pule halewai should be utilized. These gatherings should include people who are active and interested in Hawaiian self-determination, Hawaiian rights, and Hawaiian health care can meet identify mutual goals and needs.

These meetings should be conducted and managed by a impartial moderator system which is pono with "Hawaiian national usage", "Hawaiian Judicial precedent", and the Traditional and Customary practices of the Hawaiian Islands.

### No funding no work!

The meetings should be **well funded**, advertising, community outreach, transportation costs, copying materials, infrastructure to follow-up and communicate the goals and needs of the participants must be available.

Not only should the native Hawaiian people be encouraged to participate, people of all ethnic backgrounds should be welcomed and encouraged to participate in the process as well.

The **United States Interior Department** and **United States Justice Department** should **lobby, or provide the funding** needed to facilitate this project immediately.

In closing members of the *Hawaiian Law Foundation* are ready, able, and willing to work with any person or group that is ready to move forward with the facts and law and setting our opinions aside to do what is pono for Hawai'i nei and our people.

Mahalo nui loa,

Research and Communications Committee  
The Hawaiian Law Foundation

Contact us on the World Wide Web: [www.hawaiianrights.org](http://www.hawaiianrights.org)

Email: @laina@justicemail.com

or at:  
P.O. Box 390725  
Kailua-Kona, Hawaiian Islands  
96739

*Hawaiian Law Foundation @ [www.hawaiianrights.org](http://www.hawaiianrights.org)*

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**TESTIMONY OF THE OFFICE OF HAWAIIAN AFFAIRS  
RE DEPARTMENT OF INTERIOR/DEPARTMENT OF JUSTICE  
RECONCILIATION HEARINGS**

Submitted January 14, 2000

**INTRODUCTION**

The United States has a unique legal and political relationship with Native Hawaiian people, as set forth in the Constitution of the United States, treaties, statutes, Executive orders, and court decisions.

OHA hopes that the results of these reconciliation hearings will be meaningful. The word “reconciliation” refers to an effort to correct a wrong, to make amends, to achieve a “settlement” or “resolution” of a dispute. See, e.g., Webster’s Ninth New Collegiate Dictionary 984 (1990). A “reconciliation” requires something more than being nice or showing respect. It requires action to rectify the injustices and compensation for the harm. A commitment of land and financial compensation will be required to fulfill the commitment of a “reconciliation” toward the Native Hawaiian people.

**HISTORY AND LEGAL ENTITLEMENT**

The history of the relationship between the United States and the State of Hawai‘i and the Native Hawaiian people has been told many times. An accurate description of the illegal overthrow of 1893 and the annexation of 1898 can be found in the Apology Bill, Pub. L. No. 103-150, 107 Stat. 1510 (1993). The Hawai‘i Legislature confirmed the historical accuracy of this summary in Section 1 of Act 329 (SLH 1997).) The OHA Board of Trustees unanimously also accepted the historical summary of the Apology Bill and acknowledged the apology by Congress and the President. The opinions in Rice v. Cayetano (II), 963 F. Supp. 1547, 1551-52 (D. Haw. 1997) and Rice v. Cayetano, 146 F.3d 1075, 1077-78 (9<sup>th</sup> Cir. 1998), also provide reliable retellings of this history. See also,



Mililani B. Trask, Historical and Contemporary Hawaiian Self-Determination: A Native Hawaiian Perspective, 8 Ariz. J. Int'l & Comp. L., Fall 1991, at 77, 84.90.

One hundred and six years ago, diplomatic and military representatives of the United States made possible the overthrow of the Kingdom of Hawai'i by "an act of war.... on a friendly and confiding people".<sup>1</sup> One hundred and one years ago, the illegitimate "Republic of Hawaii" ceded under special trust both sovereignty and more than 1.8 million acres of Hawaiian crown and government land to the United States.<sup>2</sup> This embezzlement of the sovereignty and land of a people was taken without the consent of and without payment to the Hawaiian people. Indeed, it was taken in derogation of the will of that people.<sup>3</sup> Seventy-eight years ago, the United States, by act of Congress, divided our people by blood quantum, drawing lines between parent and child, grandparents and grandchildren and `ohana in a society and culture knowing no such distinctions. Forty years ago, a continuation of this unwarranted division of the Hawaiian people was made one of the conditions to Hawaii's admission as the fiftieth state of the Union.<sup>4</sup>

For too long, the Hawaiian people have been asked to endure the painful irony that they were made part of the American political family without adherence to the basic tenet of that family - self-determination. For too long, the United States has imposed its power to re-define the Hawaiian people without taking responsibility for dividing the community. For too long, the Hawaiian people

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<sup>1</sup> Grover Cleveland, "President's Message to Congress Relating to the Hawaiian Islands (December 18, 1893), at p. 12, is appended as Exhibit 4.

<sup>2</sup> Transcript of Proceedings of Reconciliation Hearings, East-West Center, Honolulu, Hawai'i, December 11, 1999, is appended as Exhibit 5.

<sup>3</sup> In 1898, over twenty-one thousand Hawaiians out of an estimated total population of thirty-nine thousand, or 54% of all Hawaiians, signed a petition rejecting the proposed annexation by the United States.

<sup>4</sup> Act of March 18, 1959 (Admission Act), Pub.L. 86-3, 73 Stat 4, §§4 and 5(f).

have been expected to keep the trust while the United States and its agents have kept the land and its economic harvest.

Following the illegal overthrow of the Kingdom of Hawai'i on January 17, 1893, the Provisional Government and then the Republic of Hawai'i assumed management of all lands formerly controlled by Queen Lili'uokalani (the Crown Lands), Hawai'i Constitution, Art. 95. Sec. 262 (1894), as well as the lands controlled by the government of the Kingdom of Hawai'i (the Government Lands). The U.S. Congress acknowledged in the 1993 Resolution Bill, supra, that this action was illegal, that it could not have been accomplished without the assistance of U.S. agents, and that the subsequent "cession" of these lands to the United States in 1898 was "without the consent of or compensation to the Native Hawaiian people of Hawai'i or their sovereign government:"

**Whereas, without the active support and intervention by the United States diplomatic and military representatives, the [January 1893] insurrection against the Government of Queen Liliuokalani would have failed for lack of popular support and insufficient arms;**

....

**Whereas the Republic of Hawai'i also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawai'i, without the consent of or compensation to the Native Hawaiian people of Hawai'i or their sovereign government;**

....

The Congress--

(1) on the occasion of the 100th anniversary of the illegal overthrow of the Kingdom of Hawai'i on January 17, 1893, acknowledges the historical significance of this event which resulted in the suppression of the inherent sovereignty of the Native Hawaiian people...

(Emphasis added.)

The United States established the Territory of Hawai'i pursuant to the Organic Act of April

30, 1900, ch. 339, 31 Stat. 141 (without any vote of the citizens of the former Kingdom of Hawai`i). The Organic Act provided that all proceeds from the Public Lands (the former Crown and Government Lands) were to be applied by the government of the Territory of Hawai`i to "such uses and purposes for the benefit of the inhabitants of the Territory of Hawai`i as are consistent with the joint resolution of annexation, approved July seventeenth, eighteen hundred and ninety-eight." Act of April 30, 1900, 31 Stat. 141 § 73. These lands were exempt from then-existing public land laws of the United States by the issuance of this mandate which established (in the language used by Congress in the Native Hawaiian Health Care Improvement Act Amendments of 1992) "a special trust relationship between the United States and the inhabitants of Hawai`i." 42 U.S.C. § 11701(12). The United States had "no more than naked title to the public lands," State v. Zimring, 58 Hawai`i 104, 124, 566 P.2d 725, 737 (1977)(emphasis added), with beneficial title being held by the beneficiaries of these lands.

Although in earlier periods the United States had entered into explicit treaties with native people whose land was taken, after the enactment of the Appropriations Act of 1871, ch. 120, sec. 1, 16 Stat. 544, 566, codified at 25 U.S. C. sec. 71, the United States entered into no further formal treaties. See generally Felix Cohen's Handbook of Federal Indian Law 105-07 (Rennard Strickland et al. eds., 1982 edition); Rice v. Cayetano (II), 963 F. Supp. 1547, 1553 (D. Haw. 1997). The history of the status and treatment of Native Hawaiians (like that of the Alaska Natives) is thus different from that of American Indians in the 48 contiguous states. Native Hawaiians "developed their own trust relationship with the Federal Government as demonstrated by the passage of the Hawaiian Homes Commission Act, Pub. L. No. 34, 42 Stat. 108 (1921) and because Native Hawaiians were not being excluded from beneficial legislation in the same manner as unacknowledged mainland United States Indian tribes." Rice v. Cayetano (II), 963 F. Supp. at 1553.

In Section 5(b) of the 1959 Admission Act, Pub. L. No. 86-3, 73 Stat. 4 (1959), the United States transferred about 1.2 million acres of the Public Lands, plus another 200,000 acres of Hawaiian Home Lands, to the State of Hawai'i. According to Congress's subsequent (1992) interpretation of this action, the United States "reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the [Hawaiian Home lands] trust, including the power to approve land exchanges, and legislative amendments affecting the rights of beneficiaries under such Act." 42 U.S.C. § 11701(15). Section 5(f) of the Admission Act explicitly provided that the lands granted to the State of Hawai'i upon admission were to be held by the State as a public trust. By this provision, again using the language chosen by Congress in 1992, the United States "reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of the [Admission Act]." 42 U.S.C. § 11701(16). None of these transfers, either from the Republic of Hawai'i to the United States, or from the United States to the State of Hawai'i, involved the offer or acceptance of value for these lands, either to the Native Hawaiian people or the entities that assumed subsequent title. See Apology Bill, supra.

In Section 5(f) of the 1959 Admission Act (OHA Plaintiffs' Exhibit 73), Congress stated explicitly that the transferred lands were to be held as a "public trust" by the State and that the revenues generated by these lands and the revenues were to be used for five specific purposes: "for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a bases as possible[,] for the making of public improvements, and for the provision of lands for public use." Until

Hawai'i's 1978 Constitutional Convention, the State interpreted this provision as allowing it to use the revenues for any one of these purposes. The State devoted all the funds to public education, and allocated none of it specifically to benefit Native Hawaiians. Melody K. MacKenzie, Native Hawaiian Rights Handbook 19 (1991).

Because of this neglect, the delegates to the 1978 Convention proposed a series of constitutional amendments that were subsequently ratified by the voters and added to Hawai'i's Constitution. These amendments affirmed that the State "held" the Ceded Lands as a Public Land Trust, with Native Hawaiians as one of the two named beneficiaries, along with the general public (Article XII, Section 4). They also created the Office of Hawaiian Affairs (OHA) (Article XII, Section 5) and required the State to allocate a pro rata share of the revenues from the Public Lands to OHA to be used explicitly for the betterment of native Hawaiians (Article XII, Section 6).

The Congress has repeatedly found that the health of Native peoples is tied to their relationship to land. More specifically, Congress has found that this is indeed true for Hawaiian people. The Apology Bill specifically finds that: "Whereas the health and well-being of Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land . . ." 107 Stat. 1510.

The social and economic changes in Hawai'i had a "devastating" effect on the Native Hawaiian population and on their "health and well-being." Apology Bill, 107 Stat. at 1512. Foreigners brought new diseases to Hawai'i, and the Native Hawaiian population plummeted.

The condition of Native Hawaiians continued to deteriorate, and in 1920 territorial representatives sought assistance from Congress. Noting that Hawaiian people had been "frozen out of their lands and driven into the cities," and that "Hawaiian people are dying," the representatives recommended allotting land to the Hawaiians so that they could re-establish their traditional way of

life. H.R. Rep. No. 839, 66<sup>th</sup> Cong., 2d Sess. 4 (1920). The Secretary of the Interior echoed that recommendation, informing Congress that Native Hawaiians are “our wards \*\*\* for whom in a sense we are trustees,” that they “are falling off rapidly in numbers” and that “many of them are in poverty.” Id. Those recommendations led to the enactment of the Hawaiian Homes Commission Act, 1920 (HHCA), ch. 42, 42. Stat. 108, which designated 200,000 acres of lands for homesteading by “native Hawaiians,” which was defined as descendants of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.

Since Hawai`i’s admission into the Union, Congress has continued to accept responsibility for the welfare of Native Hawaiians. Congress has established special Native Hawaiian programs in the areas of health care, as well as education, employment, and loans. Native Hawaiian Health Care Improvement Act, 42. U.S. 11701-11714; Native Hawaiian Education Act, 20 U.S.C. 7901-7912; Workforce Investment Act of 1998, Pub. L. No. 105-220, Sec. 166, 112 Stat. 1021 (to be codified at 29 U.S.C. 2911 (Supp. IV 1998)); Native American Programs Act of 1974, Pub. L. No. 88-452, Tit. VIII, as added by Pub. L. No. 63-644, Sec. 11, 88 Stat. 2323. These statutes are premised on Congressional findings that the conditions of Native Hawaiians in such areas as health and education continue to lag seriously behind those of non-natives, 42 U.S.C. 11701 (22); 20 U.S.C. 7902(17).

The U.S. Congress and President committed themselves to pursue a “reconciliation” between the United States and the Native Hawaiian people in the 1993 Apology Bill, Section 1(4)-(5), and the State of Hawai`i has committed itself to a similar process in Acts 359 (SLH 1993) and Act 329 (SLH 1997).

Further, the United States has recognized that Native Hawaiians, as aboriginal, indigenous, native peoples of Hawai`i, are a unique population group in Hawai`i and in the continental United

States and has so declared in Office of Management and Budget Circular 15 in 1997 and Presidential Executive Order No. 13125, dated June 7, 1999.

On July 28, 1999, the United States filed an amicus brief supporting the State of Hawai'i and the Native-Hawaiian-only vote for OHA Trustees in the case of Rice vs. Cayetano, No. 99-818, United States Supreme Court. In its brief, the United States affirmed that it has a trust obligation to indigenous Hawaiians. "A requirement that there be a recognized tribal government would be particularly unjustified here. The United States has concluded that it has a trust obligation to indigenous Hawaiians because it bears a responsibility for the destruction of their government and the unconsented and uncompensated taking of their lands." (See Brief of United States filed July 28, 1999 at p. 21.) The United States further explained that "Congress does not extend benefits and services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once-sovereign nation as to whom the United States has a recognized trust responsibility." (Id. at 27.)

Six years ago the United States Congress responded to the growing demands of an awakened Hawaiian people. In 1993, Congress, led by the Hawaii congressional delegation, concluded that a century of national silence and neglect was enough. In 1993, it enacted Senate Joint Resolution 19, popularly known as the Apology Bill. In that Bill, the Congress acknowledged America's illegal role in destroying the legal government of the Hawaiian people and urged President Clinton to support reconciliation efforts between the United States and the Native Hawaiian people. Another six years passed before the federal executive branch, at the urging of Senator Daniel Akaka, appointed two representatives to initiate the reconciliation process called for in the Apology Bill. Those representatives were John Berry, Assistant Secretary, Policy, Management and Budget, U.S. Department of the Interior, and Mark Van Norman, Director of the Office of Tribal Justice, U.S.

Department of Justice.

In December 1999, a series of community meetings on all five major islands of Hawai'i were held by the Federal Reconciliation Delegation.<sup>5</sup> Those meetings, representing the first important step in the long-delayed journey toward reconciliation between and among our peoples, culminated in a community roundtable and public forum held at the East-West Center of the University of Hawai'i, Manoa, on December 11, 1999. The focus of that roundtable was three-fold: (1) determining the critical issues confronting the Hawaiian people, (2) determining the political relationship between the United States and the Hawaiian people, and (3) determining the direction the reconciliation process should take. This post-hearing submission expands on the comments and suggestions made at that roundtable and in prior community meetings.<sup>6</sup>

### **Chapters in the Story of a People**

What are the strengths of the Hawaiian people and their culture that should anchor any new relationship with the federal and state governments? What are the weaknesses within the community that starve its soul and undermine the foundation we seek to build? How do we eliminate the source and effect of this decay? What has been the story of the Hawaiian people as part of the American political family? What have been the fruits of America's Special Trust? How should that story be written in the future. Indeed, do Hawaiians have the same rights of self-determination that have been recognized nationally and internationally as inherent in all indigenous people?

During the December hearings, many Hawaiian shared their concerns and their hopes. But

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<sup>5</sup> Representatives of several other Federal departments and agencies, along with observers from several congressional offices, joined Mr. Berry and Mr. Van Norman in these consultations with the Hawaiian community.

<sup>6</sup> Appended as Exhibit 5 is a transcript of the roundtable discussions on December 11, 1999. Also appended as Exhibit 6 is a transcript of the preceding day's hearing on education, health, economic development and other specific subject areas.



thousands more, with a thousand more stories and recommendations, still wait to be heard. Despite Herculean efforts on the part of the federal delegation and many within the Hawaiian community, a century of social, economic and political decay borne of neglect and disregard for Hawaiian self-determination cannot be overcome through one week of meetings and pronouncements of regret, however well-crafted and heart-felt. A history written over a hundred years cannot be fully told, much less comprehended, over a few days or even weeks.

For some families and at some levels, the last century has been one of great social, economic and political advancement both in Hawai'i and in the Nation. But for most, it has been the familiar tale of an indigenous people whose land and resources are confiscated "for the public good" to fuel the economy and warm the society of the new "settlers," whose entire culture and lifestyle have changed, often as a result of trickery, force or acquiescence born of the need for survival, to mimic that of the new arbiters of social acceptability. And just as the story has been the same, so have been the consequences. Rendered incapable of reaping the benefits of the new society and denied the benefits and strength of their history and culture, they have been expected to bear the burdens of that society built upon their land and its resources.

Until such time as sufficient financial and analytical resources are committed to painting a true picture of the Hawaiian People on a statewide and national basis, the existing data sketches a dim portrait.

### Culture

When integrated with the land itself, the shared traditions, practices and belief system that made up Hawaiian culture defined (and for many, continues to define) the Hawaiian people and their community. It was the glue that ensured continuity in the Hawaiian community as a community over time and space. Unfortunately, like the experience of all indigenous people, the

cohesiveness of the cultural values that had flourished when Europe suffered through its dark ages came under attack shortly after first Western contact. That attack accelerated when contact moved to settlement and the ability to control and exploit the land and resources of the Hawaiian Islands became a reality. Hawaiians went from a world in which they determined the rules for harmonious living in these islands, where they sought to be one with their environment and `ohana, to one where they were ruled as strangers in their own land.

This bundle of cultural rights, practices and beliefs have been advanced at the federal level under, for example, the National Environmental Protection Act, the National Historic Preservation Act, and the Native American Graves Protection and Repatriation Act. This piecemeal approach to protecting and preserving Hawaiian cultural rights within the context of fragmented federal decision-making has however, made it difficult to ensure the consistent consideration and effective protection of Hawaiian culture as a whole.

At the state level, this has been accomplished by constitutional recognition of the right to exercise customary and traditional practices for subsistence, culture and religious purposes. Article XII, Section 7, Hawai'i State Constitution. See Public Access Shoreline Hawai'i v. Hawai'i County Planning Commission, 79 Haw. 425, 903 P.2d 1246 (1995). See also Haw. Const., Article X, Section 4 (mandating the promotion of the study of Hawaiian culture, history and language) and Article IX, Section 9 (granting state power to preserve and develop ethnic cultural, creative and traditional arts).

If reconciliation efforts are to be successful, the Hawaiian people and Hawaiian heritage (including its sense of shared responsibility and `ohana and responsibility for stewardship of all nature) must be recognized and applied. See, e.g., Van Norman, Exhibit 5 at p. 119, lines 1-4. And Federal policies, statutes and regulations should be developed which acknowledge, recognize,

protect and preserve Hawaiian cultural traditions and practices no less than the laws of the state.

### **Land and Natural Resources**

For many Hawaiians, the fundamental wound resulting from the illegal overthrow and the last century of neglect has been their dispossession from their lands and seas. This view is understandable. As is the case for most indigenous peoples, the land acts as a beacon around which family, society, culture and society navigate. This pivotal role perhaps best explains why a rejection of individual land ownership and acceptance of group responsibility for stewardship (e.g., sustainable land and natural resource management and shared access to land and natural resources) are common threads that run through the cultures of almost all indigenous people. Long-held principles of Hawaiian constitutional law underscored this. A common thread through ancient Hawaiian society was that all the people share ownership and responsibility for the `aina (land). In its first constitution, adopted in 1840, the Kingdom acknowledged that the monarchy exercised the right of management over the land but title was held in trust for all the people. See generally, Mitsue Uyehara, Hawai'i Ceded Land Trusts: Their Use and Misuse, p. 18-22 (1977), appended as Exhibit 12. Thus, the unauthorized ceding of 1.8 million acres of former Crown and Government land to the United States in 1898 represented more than the mere loss of an economically valuable commodity.<sup>7</sup> It marked the elimination of one of the principal boundaries defining and sustaining the Hawaiian culture and its people.

In 1921, the United States Congress took its first tentative step in returning at least some of the ceded lands. Under the terms of the Hawaiian Homes Commission Act of 1921, about 217,000 acres of the more than 1.8 million acres of ceded land were set aside for Hawaiian homesteads and

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<sup>7</sup> The 1.8 million acres represent only the fast lands of the Kingdom. Also ceded to the sovereignty of the United States and subject to a "special trust" were the submerged lands of the Kingdom.

for agricultural purposes. Rejecting a recommendation that these lands be made available to any Hawaiian of at least 1/32 blood,<sup>8</sup> Congress restricted eligibility to only Hawaiians of 50% or more blood.<sup>9</sup> Lands that had been taken from all were thus returned only to the few. Management of those lands was lodged not with the Hawaiian People but with appointees of the United States and, after 1959, the State of Hawai'i.

Reconciliation process must focus on identifying, recommending and implementing the appropriate remedies for resolving outstanding land and resource claims. Absent a resolution of this overriding issue, no firm foundation for political and social reconciliation is possible.

### Economics

Sustainable development of the economic infrastructure of the Hawaiian community was a common chord heard during the December reconciliation hearings. Its repeated emphasis is understandable.

Faced with the demise of primary employers such as the sugar and pineapple industries, the downsizing of the military services industries as well as the negative demand shocks of the tourism industry, Hawai'i's land, natural resources and people in general and, to a greater extent, Native Hawaiians, were dealt a severe blow to their economic well being in the 1990s. Native Hawaiians continue to have the highest rates of unemployment in the State of Hawai'i. In 1998, Native Hawaiians had an unemployment rate of 10.4% while the state as a whole had an unemployment rate of 6.2%. Prior to this, while Hawai'i was experiencing its most affluent and extensive growth period

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<sup>8</sup> Melody MacKenzie, *Native Hawaiian Rights Handbook*, p. 47.

<sup>9</sup> The law did authorize the Commission to lease land not used for residential purposes to non-Hawaiians for agricultural uses. The principal beneficiaries of provision were the large sugar cane growers, one of the groups that originally proposed the Hawaiian set-aside as a vehicle to ensure a continuation of their ability to lease ceded land for private purposes. Mitsuo Uyehara, *Hawai'i Ceded Land Trusts: Their Use and Misuse* (1977), p. 16. appended as Exhibit 12; Melody MacKenzie, *Native Hawaiian Rights Handbook*, pp. 44-45.

in the 1980's Native Hawaiians still faced poverty rates of 14% while the rest of the state experienced a 6% poverty rate.<sup>10</sup>

One of the recurring problems facing Native Hawaiians is lack of effective supportive access to federal programs for to economic and business development, minority business technical assistance and, of course, venture capital. In many instances, OHA is put in a position of directly competing with the State of Hawai'i as the eligible partner with the federal government in program and grant development. Identification of business and economic opportunities would be of major assistance in creating economic and related success stories.

However, to ensure true sustainability, the economic infrastructure must not be one of isolation from the other communities that make up our state, our nation and our world. Rather, it must be structured to be a vibrant element of a larger inter-dependent world economy. Economic development is not just good for Hawaiians, it is good for the entire state.

### **Education**

It is widely recognized that high quality, accessible education is one of the great social equalizers. The goal and obligation of providing equal educational opportunities has been a cornerstone of contemporary American political thought and educational planning. The value of education is also an important part of ancient Hawaiian culture, as evidenced by the critical and respected role of kupuna in sharing their wisdom to ensure continuity from generation to generation. Unfortunately, despite examples of great educational achievement in the face of daunting odds on the part of some, study after study reinforces the inescapable conclusion that the Hawaiian people

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<sup>10</sup> U.S. Bureau of the Census 1990 Census and Population. Social and Economic Characteristics, Hawai'i.

as a group have not benefitted equally from the educational process.<sup>11</sup>

From a people that ranked among the most literate in the world,<sup>12</sup> the Hawaiian people have fallen behind all other racial and/or ethnic groups in the state of Hawai'i.<sup>13</sup> This bitter fruit of a legacy of lost educational opportunity is made even less palatable because the state's educational system in significant part was built upon and was funded by ceded Hawaiian lands.<sup>14</sup>

The responsibility to address this educational heritage is borne by every level of government and all Ali'i trusts that have an educational component. Among the most well-known of the trusts is the Kamehameha Schools. Recently, that Trust reorganized its leadership, refocused its energies and renewed its commitment to educational excellence. However, Kamehameha Schools efforts and resources cannot be used as an excuse for the United States, the state of Hawai'i and the University of Hawai'i to begin to discharge their parallel obligation to the children of Hawai'i.

To drive reconciliation toward real long-term success, the federal government must move now, and move forcefully, to reverse what appears to be an accelerating downward trend in relative Hawaiian education achievement. New funding, new programs and new commitments to different, more culturally sensitive approaches to re-building the love of learning are in order.

## **Health**

Hawaiians are an ancient Polynesian people whose survival on and among the multitude of

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<sup>11</sup> See, e.g., Tibberts, Katherine A., "Hawaiian Students in the Hawai'i State Department of Education, 1998-1999," Report No. 98-99:5, Kamehameha Schools Bishop Estate (January 1999), attached hereto as Exhibit 7.

<sup>12</sup> The First Annual Report of the Native Hawaiian Education Council (1997), is appended hereto as Exhibit 8.

<sup>13</sup> *Id.*

<sup>14</sup> McKenzie, Melody, "Native Hawaiian Rights Handbook", 1991, Native Hawaiian Legal Corporation and Office of Hawaiian Affairs.

islands that dot the Pacific depended on their hardiness, health and industriousness. At the time of first reported contact with the Western world in 1778, it is conservatively estimated that 300,000 lived and exercised sovereignty over what became the State of Hawai'i.<sup>15</sup> That is not the case today.

As a group, Hawaiian children are more likely to be born at risk, grow up in despair and poverty, depart school early, suffer disease through their working years and die early. Compared to other groups within the State, Hawaiians are more likely to die of cancer, diabetes, heart disease, hypertension and stroke.<sup>16</sup> They are more likely to suffer the disastrous effects of alcohol and drug abuse and are more prone to respiratory illnesses and thyroid disease.<sup>17</sup> Not surprisingly then, they have the lowest life expectancy in the state.<sup>18</sup> Hawaiians are more likely to be arrested and imprisoned, to be unemployed and to live below the poverty level, and be born "at risk".

### **Housing**

In a relatively recent study based on a broader vision, the U.S. Department of Housing and Urban Development found that 49% of Native Hawaiians experience housing problems.<sup>19</sup> That rate is the highest in the nation, higher than that experienced by Native Americans and Alaska Natives (44%) and almost double the rate of all U.S. households (27%).

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<sup>15</sup> Id., at 3.

<sup>16</sup> "Native Hawaiian Mortality, 1980 and 1990," American Journal of Public Health (June 1996), Vol. 86, No. 6.; Melelook, Kathryn Braum, "A Mortality Study of the Hawaiian People, 1910-1990 (November 1995); "High Mortality Rates in Native Hawaiians," Hawai'i Medical Journal (September 1995), Vol. 54, September 1995.

<sup>17</sup> Pacific Health Dialog, Vol. 5.2, Papa Ola Lokahi Hawaiian Health Update: Mortality, Morbidity and Behavioral Risks, David B. Johnson, Neil Oyama, Loic LeMarchand, September 1998.

<sup>18</sup> Hawai'i State Department of Health, Office of Health Status Monitoring. Life Expectancy in the State of Hawai'i 1980 to 1990 (1996).

<sup>19</sup> U.S. Department of Housing and Urban Development, Office of Policy Development and Research, Housing Problems and Needs of Native Hawaiians. HUD-1573-PDR, March 1996, is appended as Exhibit 9.

What can and should be done to address the housing problems of the Hawaiian people? An infusion of additional housing funds, without blood quantum restrictions, is one obvious response. It has been said that in its first seventy-five years of existence, the Federal government funneled approximately \$8 million to address the needs of native Hawaiians on Hawaiian Home Lands. That was not and is not enough. In just the last six years, OHA itself has sought to fill the void left by the federal government's inertia, committing over \$31 million (almost four times the reported federal support over less than one-tenth the time) of its own funds to address the housing needs of DHHL beneficiaries. Yet, even OHA's massive commitment of loan and start-up funds has proven inadequate.

#### **Outline for a Future Story**

If the goals of the reconciliation process called for in the Apology Bill and begun in December 1999 are to have any realistic hope of mending the wounds inflicted over the last century on both the Hawaiian and non-Hawaiian communities, it must be predicated on three things.

First, there must be a commitment to meaningful self-determination. Second, there must be a commitment to acknowledge and implement the federal trust responsibilities to the Hawaiian people. Third, there must be a commitment to recognizing and building upon the unique historical, economic, long-standing responsible decision-making, stewardship and access to land and natural resources, social and cultural heritage of the Hawaiian people. *See*, Van Norman, Exhibit 5 at p. 119, lines 1-4. Upon this foundation, a lasting relationship between the Hawaiian people and the United States can be built; a relationship upon which we can begin to address the other important issues of education, housing, economic development, and social justice that have been identified repeatedly in the past federal reports and studies, including the Native Hawaiian Study Commission's Report on Reparations and Restitution (May 1982) and A Broken Trust-The Hawaiian



Homelands Program: Seventy Years of Failure of the Federal and State Governments to Protect the Civil Rights of Native Hawaiians, and were emphasized during the December 1999 hearings.

In trying to craft the appropriate federal/state/Hawaiian relationship of the future, one must start from an appreciation of what that relationship is today. At its core, the United States is and has always been a trustee over - not a beneficiary of -- the sovereignty and lands of the Hawaiian people ceded in 1898. The United States has just very recently re-acknowledged this role and responsibility.

From that role as trustee comes three fundamental fiduciary duties that should guide its response to our collective vision of our future.

- First, the United States has a duty to preserve and nurture our sovereignty and lands.
- Second, the United States has a duty to account for our sovereignty and lands.
- Third, the United States has a duty to work to return our right to decide the future of our sovereignty and our lands.

For the United States, the answer is to discharge its duty to nurture, account for, and ultimately restore Hawaiian sovereignty and lands.

There must be a formal structure that facilitates and advances the process of dialogue that began in December of last year. The people of the state of Hawai'i recognized this necessity a generation ago when they created the Office of Hawaiian Affairs. We believe the federal government should follow their lead. We believe that the Office of Hawaiian Affairs can serve as a viable point of contact until such time as Hawaiians determine otherwise.

The underlying principle is any reconciliation talks and strategies toward reconciliation is the principle of "Justice". The President of Zambia has linked reconciliatory forgiveness to justice and ties justice to right relationships. Seeking what is just for the historic wrongs done to the Hawaiian people will set levels of standards at which these consultations must begin. And "justice

is advanced through recognition of multiple kinds of harms, the acceptance of responsibility for wrongs and the reparatory acts that engender forgiveness”.

### **Defining The Reconciliation Process**

The federal government should not under-estimate the process in designing outcomes toward reconciliation. It is imperative that the pace and process of the journey to the outcomes be advanced only through continuing consultation with the Hawaiian community because no lasting resolution, “ho`oponono” (making things right), in a broken relationship between the offender and the offended can be determined by one party alone. The reconciliation process must not be a “cheap reconciliation”. In a recently published book by Eric K. Yamamoto, law professor at the University of Hawaii Richardson Law School, entitled *Interracial Justice, Conflict & Reconciliation in Post-Civil Rights America*, four elements are identified that must be a part of true and genuine reconciliation. We believe this framework is valuable to apply to the process and in the journey toward Reconciliation.

Briefly, the four elements are:

- Recognition
- Responsibility
- Reconstruction
- Reparations.

In Recognition, the suffering must be recognized and the offense carefully evaluated.

In Hawaiian style-problem solving called ho`oponono we examine the hihia (the entanglement) and attempt to uncover a layer at a time, likened to peeling an onion. So too this stage of reconciliation consultation must take into thorough account the impact the offense had on Hawaiian people and inquire to the psychosocial impact on the offended. As Yamamoto notes, “one wound

is the immediate harm, the second wound is the pain buried in the collective memories of the from exclusion or subjugation.....”

For Hawaiians, there is an equally difficult step to implement, but it too is an important part of reconciliation between the offender and offended. That step involves empathy towards the offender from the offended. Empathizing with those inflicting harm is difficult but necessary. Those that inflict harm, while guilty of oppressing may have also been oppressed at one time and a deepened understanding of the other and one's self will be achieved by listening, acknowledging, and exchanging the pain. This will make reconciliation possible. Also important to the element of recognition is critical analysis of the particular, structural and contextual aspects of the relationship in controversy and crisis. The stories, which contain the history and the spirit, of the offended and the offenders, will further define the conflict and the roles played and provide a lens through which offender and offended may deepen understanding, one of the other, and advance the process of reconciliation.

As Yamamoto says, “recognize and empathize with anger and hope of those wounded, acknowledge the disabling constraints imposed by one group over the other and the resulting group wounds. Identify related justice grievances underlying current group conflict. Critically examine the stories of group attributes and relations that continue those constraints and grievances.”

In Responsibility, the group(s) must carefully assess the dynamics of the group in the imposition of the “disabling constraints” on others. And in that process acknowledge and take responsibility for healing the resulting wounds, on behalf of the group. For example, while the present generation did not directly violate the right of Queen Lili'uokalani and the Hawaiian Kingdom 107 years ago, a group sense and spirit of responsibility must be present as part of the reconciliation, no matter how long the process takes, as it will reinforce and demonstrate the

significant commitment to reconciliation and making things right and just. "A group's acceptance of responsibility for addressing grievances broadened to include responsibilities for healing wounds impeding peaceful and proactive relations regardless of their source."

In Reconstruction, active steps, the action, toward making things right—healing wounds that result from group constraints are fundamental. Apologies are included. Forgiveness of the injured and joint reframing of relations between groups and identities between groups is part of this phase as well. Reconstruction requires a "mutuality of performance", an apology by those responsible and forgiveness by those hurt. The aggressors must give up the self-righteousness. The aggrieved must give up the resentment.

Reconstruction also requires the effort, the commitment and the followthrough to remake, to restore, and to correct.

In Reparation, the task is to make material changes to the relationship, to repair, to make changes in the structure of the relationship from all aspects (i.e. social, political, economic etc.)

Throughout the Reconciliation Process, all who are involved, must guard against the tendency to do it "quick and shabby. It is imperative to guard against "cheap reconciliation" in which healing efforts are just talk or efforts that are treated superficially.

### RECOMMENDATIONS

In order to implement reconciliation, the United States should undertake the following steps.

1. The President and federal agencies should assist in formalizing the political relationship between Native Hawaiians and the United States and should view Native Hawaiians as having an equivalent legal and political status as held by other Native Americans and support legislation.
2. The President and federal agencies should enforce and implement the existing trust responsibilities of the federal and state governments in relation to the Hawaiian Homes Commission

Act and the ceded lands and its resources held in trust by both governments.

3. The President and federal agencies should support legislation to provide a waiver of sovereign immunity and of the relevant statutes of limitation, to permit suits for the return of land, and to create a private right of action for money damages in actions brought by OHA or private plaintiffs.

Native Hawaiians were excluded from the Indian Claims Commission Act of 1946 which was established to adjudicate Indian claims. In addition, Native Hawaiians have had difficulties in pursuing claims in federal court.

4. The federal government should establish a tribunal for Native Hawaiian claims to adjudicate similar to the Waitangi Tribunal established in New Zealand. The Maori in Aotearoa (New Zealand) are the Polynesian cousins of the Native Hawaiians, and their efforts to recover land, resources, and autonomy parallels in many ways the efforts of the Native Hawaiians. The Maori are considerably farther along in this struggle, however, and the courts of their country have acted repeatedly to protect and effectuate their rights.

The Waitangi Tribunal was established to examine claims that the British Crown failed to fulfill its obligation under the 1840 Treaty of Waitangi to protect Maori land and resources.

5. The United States should unconditionally support and facilitate the self-determination process and the convening of a Native Hawaiian convention and appropriate the necessary monies to support the convening of a convention.

“All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” *See*, International Covenant on Civil & Political Rights (ICCPR). Native Hawaiians have the right to self-determination and right to govern their affairs in a self-governing status pursuant to their

culture, traditions, and current goals. The federal executive agencies should promulgate policies and propose legislation in consultation with Native Hawaiians that gives true meaning to self-determination. Self-determination means more than simply the right to decide a single question posed by another. It means the power to determine the nature of the questions themselves. Accordingly, policies and legislation should be developed recognizing Hawaiians' right to determine their form of political organization and that entity's political relationship with the United States and its own people.

6. A separate Office of Native Hawaiian Affairs should be established in the Office of the Secretary of the Department of the Interior. A knowledgeable senior federal official who would report directly to the Secretary should staff this position. The office should be provided with a budget and staff that will ensure that the dialogue between Native Hawaiians and the Federal Government continue.

It has been suggested that this responsibility be assigned to the Office of Insular Affairs of the Department of the Interior. With all due respect to the work of that office, we respectfully disagree. The problems and concerns of Native Hawaiians are unique and, of course, Hawaii is a state and thus the legal analysis will differ. That office was recently downgraded from a bureau, removing it from the sphere of political decision-making that must govern the initial phases of the reconciliation process. The focus of the Office of Insular Affairs is on three territories and one commonwealth, with its staff resources and expertise similarly focused. The office is currently focused on parallel re-negotiations of the Compact of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands.

7. At least one attorney and appropriate staff should be assigned full time to Native Hawaiian issues in the Department of Justice. This attorney should report to a senior federal official, such as

Mr. Van Norman, Department of Justice. It is critical to have sufficient allocation of staff and resources to assist and guide the federal government in the interpretation of laws and in the enforcement of the trust responsibilities and recognition of political status.

8. The President should issue an executive order mandating all federal agencies to formalize the political status of Native Hawaiians and requiring consultation with Native Hawaiians on issues affecting the Hawaiian community. This executive order should also recognize the Office of Hawaiian Affairs as the interim representative of the Hawaiian People for administrative purposes until such time as a new political representative body is formed, endorsed and/or elected by the Hawaiian People. The executive order should also mandate the creation of a federal interagency task force with broad authority to assist both government program managers and Native Hawaiians in ensuring that existing federal domestic service programs are made fully available to Native Hawaiians so as to have the widest possible impact on improving their conditions. We support the U.S. Departments of the Interior and Justice in a continuation of that role. We recommend further that the Task Force include representation from the other relevant Federal domestic agencies at the Assistant Secretary level.

9. The United States should, in consultation with the Office of Hawaiian Affairs, determine the lands and resources that should be returned to the Native Hawaiian people and should commence the return.

10. The United States, in consultation with the Office of Hawaiian Affairs, should immediately commence the return of any federal surplus property that is ceded land to the Native Hawaiian people.

11. The United States, in consultation with the Office of Hawaiian Affairs, should assess financial payments due to Native Hawaiians for the use of ceded lands by the federal government

and provide compensation.

12. The Secretary of the Department of the Interior should impose a freeze on the sale, exchange or transfer of ceded lands until the claims of the Native Hawaiian people are resolved. This freeze could be similar to the one imposed by Interior Secretaries Udall and Hickel in Alaska before the enactment of the Native Alaskan Settlement Claims Act.

13. The United States should assist the Native Hawaiian people in eliminating the blood quantum. An important step in this process of meaningful self-determination is to return to the Hawaiian people the right and duty of defining whom a Hawaiian is. Accordingly, except perhaps for implementation of the Hawaiian Home Commission Act, the question of blood quantum should be removed from the Federal and State statutory vocabulary and returned to Hawaiians to decide for themselves.

14. The United States should implement its trust responsibilities to the Hawaiian people through the following actions: (a) inventory the fast and submerged lands ceded in 1898, (b) inventory the natural resources ceded in 1898, (c) inventory current land holdings of federal government, (d) prepare a full accounting of the financial benefits received by the Federal government and its agents from the use of lands ceded from 1898 to present, and (e) inventory the DHHL Trust.

15. The United States should reaffirm and protect all rights customarily and traditionally exercised for subsistence, cultural and religious purposes by Native Hawaiians and should permit access for the exercise of these rights on lands within the control of the federal government.

16. The federal government should reaffirm that the doctrine of Winters v. United States, 207 U.S. 564 (1908), applies to Native Hawaiian lands, so that these lands are guaranteed sufficient water to allow them to be utilized for agriculture and economic development.



17. The federal government should enforce the trust obligations of the state and federal governments regarding the interests of Native Hawaiians to the submerged lands, all of which are ceded lands, and the attendant offshore waters and the resources therein. These submerged lands include the Hawaiian Islands, Johnston Atoll, Palmyra Island and Midway Island.

### **Conclusion**

The Office of Hawaiian Affairs was created in the Hawai'i State Constitution by the people of Hawai'i as the lead state agency on matters involving the Hawaiian community. The OHA Trustees are the only duly elected representatives of the Hawaiian people. The OHA Trustees are charged with the responsibility of formulating policy on the affairs of the Hawaiian community. As the Solicitor General has stated: "In the case of Native Hawaiians, OHA itself furnishes a vehicle for the expression of self-determination over important aspects of Hawaiian affairs, and thus confirms that Native Hawaiians constitute a present-day political community." The Office of Hawaiian Affairs is thus a logical political and cultural point of contact for these activities with the federal government.

**Mahalo nui loa.**

## EXHIBIT LIST

- EXHIBIT 1: Hawaii State Constitution. Article XII, Section 6.
- EXHIBIT 2: Hawaii Revised Statutes (HRS). Chapter 10. Office of Hawaiian Affairs
- EXHIBIT 3: United States' *Amicus Curiae* Brief, *Rice v. Cayetano*, U.S.S.C. No. 98-818 (July, 1999).
- EXHIBIT 4: A Message to Congress: President's Message To Congress Relating To The Hawaiian Islands By President Grover Cleveland. House Executive Documents No. 47, 2<sup>nd</sup> Session, 53<sup>rd</sup> Congress, 1893-94. [OHA publication]
- EXHIBIT 5: Transcript of Proceedings of Reconciliation Hearing. East-West Center. Honolulu, Hawaii. December 11, 1999.
- EXHIBIT 6: Transcript of Proceedings of Reconciliation Hearing. East-West Center. Honolulu, Hawaii. December 12, 1999.
- EXHIBIT 7: *See, e.g.*, Tibbertts, Katherine A., "Hawaiian Students in the Hawaii State Department of Education, 1998-1999," Report No. 98-99:5, Kamehameha Schools Bishop Estate (January 1999).
- EXHIBIT 8: The First Annual Report of the Native Hawaiian Education Council. [August 1997]
- EXHIBIT 9: U.S. Department of Housing and Urban Development. Office of Policy Development and Research. Housing Problems and Needs of Native Hawaiians. HUD-1573-PDR. March 1996.
- EXHIBIT 10: State of Hawaii. Office of Hawaiian Affairs. Operation Ka Po'e" – A Report on the Statewide Plebiscite to Determine Preference For A Definition of 'Native Hawaiian'". February, 1990.
- EXHIBIT 11: U.S. Department of the Interior. Native Hawaiian Study Commission. Report on the Culture, Needs and Concerns of Native Hawaiians – A Dissenting Study..., Volume II. Washington, D.C. June 23, 1983.
- EXHIBIT 12: Uyehara, Mitsuo. The Hawaii Ceded Land Trusts-Their Use and Misuse. Hawaiiana Almanac Publishing Company, Honolulu, Hawaii. 1977.

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01/04/00

December 23, 1999

To: Assistant Secretary John Berry  
Policy, Management, and Budget  
Department of the Interior

Director Mark Van Norman  
Office of Tribal Justice  
Department of Justice

From: Deldrene Nohealani Herron

Subject: Reconciliation Process for Native Hawaiians

My name is Deldrene Nohealani Herron. I am a resident of Punalu'u, O'ahu, Hawai'i, U.S.A. I am not a native Hawaiian as defined by the Hawaiian Homestead Act of 1920. Nevertheless, I am part Hawaiian. My genealogy of Hawaiian ancestry is documented to the beginning of written history in these islands and is linked to Hawaiian oral tradition. My Chinese and Portuguese ancestry dates back to the 14th Century. My Caucasian ancestry is recorded back to the infamous Hull House where the Reverend Herron presided over flocks of new immigrants arriving in America from Europe, France and elsewhere. My Cherokee ancestry dates back to the time that President Taft, and his wife Mary Herron, resided in the White House. My father, the late James Herron, was a highly decorated amputee of WWII.

As I see it, the situation that has led us to this reconciliation is long overdue. Over a hundred years ago Britain, France and America divided the Pacific into their own "management zones." Perhaps by the throw of darts on a chart, America got the Northern Hemisphere, France the Southern and Britain most everything west of the International Dateline, including Australia. However, it was never predicted that Hawai'i would some day become a great Metropolis of the Pacific. The Americans still needed Hawai'i for strategic purposes but then something went wrong. The historic truths came out of an ugly unholy alliance of trespassers on an innocent, ignorant race of people called Hawaiians (Kanakas a.k.a. Kanaka Maoli). The economic scales and greed tilted against a people who more familiar with a bartering cargo society.

Who are these Hawaiians of today for whom reconciliation is now sought? Are we the great- and great-great-grandchildren of a once industrious, seafaring, self-reliant people? NO! We are now Americanized, industrious, educated, veterans of foreign wars, and downtrodden political bodies. We are native people not unlike those Indian tribes, who have been degraded by foreign pestilence and plagues and cultural and economic ruin; disenfranchised from our homelands; and separated by the political categories and whims of Congress.

On the other hand, I think it is great that America has addressed Hawaiians with an apology and seeks reconciliation. But should we not also expect reparations?" In any culture when a wrong is committed by an individual or a community upon others, reconciliation is certainly expected. In Hawai'i we call the process Ho'oponopono and it is always followed by

restitution. I can imagine how non-Hawaiians would balk at any monetary restitution to us, but if you will not give our lands back, give us a means to buy it back. We have suffered as divided people by your overthrow and the Homestead Act of 1920. In America, where one drop of black is black, why is it that Hawaiians need to be 50% Hawaiian to be Hawaiians? Why don't you just cut the B.S. debating and backroom deals and get the dirty business over with and settle it?

When I ran as an OHA candidate several years ago the late OHA Trustee Billie Beamer asked me why I was running for the office. I told her that I wanted to see the Office of Hawaiian Affairs negotiate a settlement with the United States of America for the illegal overthrow of our Kingdom. The following is the scenario I presented to her.

ARTICLE 1. By an act of Congress, endorsed by the President of the United States, all Hawaiians of any blood quantum born on or before the date of passage of Act #\_\_\_, herein known as "The Hawaiian Act of 2000," shall be issued a tax exempt State and Federal government note in the amount of \$50,000 (fifty thousand dollars) as reparation for the overthrow of their kingdom in January 1893. (Mrs. Beamer thought \$25,000 would be a fair amount as it was for Japanese internee reparation.) Any person claiming to be Hawaiian, in whole or in part, whose ancestry dates back to the overthrow, must submit the following within three years from the passage of "The Hawaiian Act of 2000:

- a. A standard Certificate of Birth registered with the State of Hawai'i Department of Health that shows a Native born ancestry or
- b. A native Hawaiian testimony of birth by two or more blood relatives, verified by the State of Hawai'i Department of Health, if no birth certificate is on file for a claimant or
- c. Certified registered proof of Hawaiian ancestry if an adopted or hanai person is filing or
- d. Any of the above must be presented by an adult for a minor who qualifies under the Hawaiian Act of 2000.

ARTICLE 2. The United States of America shall with the passage of Act #\_\_\_ eliminate the Department of Hawaiian Homelands Act of 1920 and henceforth management of the DHHL be assigned to the Office of Hawaiian Affairs until such time when and if a new native Hawaiian entity is formed by the will of the Hawaiian people.

ARTICLE 3. Any bank or lending company insured by the Federal Reserve of the United States of America shall, as its top priority, grant to any adult Hawaiian who qualifies for a home loan an exclusive guaranteed mortgage at a fixed rate not to exceed 3% simple interest. The home buyer shall pay escrow, closing costs and not less than 20% toward the purchase of a home mortgage.

ARTICLE 4. Any awardee owing State or Federal taxes, college loans, or other debts to the government shall forfeit the amounts and the balance, if any, of the \$50,000 shall be awarded to that person.

ARTICLE 5. Any person who qualifies under Act #\_\_\_ and is physically or mentally unable to manage their award and who is a ward of the Court, residing in an institution, or cared for in a home by a legal representative/care giver recognized by the Court shall forfeit their award of \$50,000 to the institution or legal representative/care giver recognized by the Court.

ARTICLE 6. Any person who qualifies under Act #\_\_\_\_ who is in a State for Federal penal institution shall receive an award upon release from such institution or if serving a life sentence without parole, may assign payment to a beneficiary, a charitable organization or educational institution.

ARTICLE 7. No minor shall receive their \$50,000 award before their 18th birthday, except for

- a. Use for higher education or
- b. Minor comes in part or in whole, under a registered family trust or
- c. Use for medical expenses not covered by a primary insurer or medicaid or
- d. Use towards the joint purchase of land and a home with life interest or until the minor becomes an adult and the parties of the joint interest agree to sell.

ARTICLE 8. A disclaimer to any future reparations by any Hawaiian qualified under Act #\_\_\_\_, herein known as the Hawaiian Act of 2000, shall be signed by all awardees and/or their legal representative.

(END OF SCENARIO)

Now, is that not a simple solution to healing the frustration and pain of the truth? Most non-Hawaiian taxpayers would be disturbed by the proposal of financial restitution to Hawaiians, but I see it as a drop-in-the-bucket settlement. It would be a mere estimated 12 billion, 500 million dollars. That is about the cost of dropping six bombs on Sadham's head or building one space shuttle for four 747s. For a Hawaiian family of four it would mean \$200,000 as an investment toward the purchase of land and a decent roof over their heads. Or they could form a hui (investment group), get out of debt, pay for medical expenses, move their family back to Hawai'i, or any other choices of action.

Of course, our trusts would remain intact. Rice v. the State of Hawai'i would still be a controversy. The Department of Hawaiian Home Lands would be a mute entity. OHA would still remain until the Hawaiian community decides to pursue sovereignty or transform OHA into a Native Hawaiian non-profit corporation. We are finally moving forward. Let us not go backwards. Let the reconciliation begin and move on to restitution

Thank you, America for even considering reconciliation.

Mahalo and Aloha,

*Deldrene Nohealani Herron*

Deldrene Nohealani Herron

*Hauoli Makahiki Hon  
(Happy New Year)*

cc: President Bill Clinton  
Attorney General Janet Reno  
Senator Daniel K. Inouye  
Senator Daniel K. Akaka  
Representative Patsy T. Mink  
Representative Neil Abercrombie

*Late  
written only  
no request*

E HO'OPONOPONO KAKOU I NA 'EHA I MEA E HO'OLA  
AI KA LAHUI. (Let us heal the pain in order to give life to our nation.)

Nov.22,1999

Aloha Mr.Berry and Mr. Van Norman,

First of all I would like to thank you and President Clinton for taking the time in gathering testimony and trying to get a sense of understanding towards reconciliation. For myself my greatest confusion is a semantics' one. What exactly does the word reconciliation mean? Is it more then just a formal apology where native peoples of Hawai'i our actually entitled to receive some form of reparations. If so how much and in what form and who would be in charge of seeing that everyone got their equal share? This all seems such a complicated issue that for two of you to gather, next make sense of, and then try to come forward with a comprehensive plan before the Clinton administration has ended.

Being that things take time and your world is dictated by a bureaucracy and millions of miles of red tape, I would like to see you folks take a priority over certain more attainable issue's versus the ones that will take more time then the Clinton administration has left. For instance, land issue's should be addressed and could be resolved if you able to find away to keep the wording simple and to the point. I believe every Hawaiian person that is currently on the Hawaiian home land waiting list, should be provided their land. There is more then enough land and it is a crying shame that people with a blood quota of 50% or more Hawaiian blood should continue dying off before they can get their land and be given a chance to pass their legacy on to their children who would not be able to receive their parents entitlement once they have died.

My hope for all the people of Hawai'i is to work towards becoming more self-sufficient. We must stop being so dependent on imported goods. My hope is that reconciliation becomes a two way street in that not only can we ask for certain types of reparations, but that we as a collective society would look toward taking actions that will move us forward towards self-sufficiency. By doing this we are allowing the strength of our ancestors to continue being our role models who needed no support from imported goods for their survival. "Na wai ho'i ka 'ole o ke akamai, he alanui i ma'a i ka hele 'ia e o'u mau makau?" (Why shouldn't I know, when it is a road often traveled by my parents?)(Pukui,1983.p.251)

In just a hundred years we have become so dependent on the U.S. mainland for our daily needs that it is my hope that reconciliation will push us to want less from the federal government and to depend more upon our abundant local resources that are available if we only look for them.



I also hope that you are able to visit the statewide programs that are currently teaching self-sufficient curriculums such as the ones offered through the Hawaiian Emerson schools. The more freedom that educators are allowed to teach related subjects, that pertain to self-sufficiency, such as teaching children how to grow food, composting and recycling the less economically dependent on the federal government we we'll become and that is really what I believe is in the best interest of both parties. We as a people should not be forced to educate our children through the department of Education standards that for the most part of far outdated and do not pertain to our local ideology. In closure I would really like to know what will happen next after you leave? Will we hear from you again? Can you continue to stay in contact with us to keep us updated with your progress.

Mahalo Nui Loa for all your heartfelt efforts,

Jennifer Holani-Perreira (808) 959-7273  
880 KUPULAU RD  
HILO, HI 96720 FAX (808) 959-4115

“KNOWLEDGE IS DERIVED FROM ACTION...  
TO KNOW AN OBJECT IS TO ACT UPON IT AND  
TRANSFORM IT” (Ira Shor)

“SO IT IS NOT SO MUCH THAT WE LEARNED TO BE  
FIERCELY INDEPENDENT, BUT THAT WE STOOD FOR SOME  
SORT OF UNIQUENESS.” (Interview with Ed Kanahale, done by  
Manu Meyer, 1/15/97)

Nov. 22, 1999

FROM: Wilma H. Holi  
P. O. Box 368  
Hanapepe, Kauai, HI 96716  
Phone: (808)335-3520 (h)  
(808)338-6800 ext. 115 (w)  
e-mail: wholi@k12.hi.us

2/2  
338-6807

TO: Assistant Secretary M. John Berry,  
c/o Document Management Unit  
Department of the Interior  
1849 C Street, N.W., Mailstop 7229  
Washington, D.C. 20240  
(Fax: 202-208-3230)

RE: RECONCILIATION HEARINGS WITH NATIVE HAWAIIANS,  
Honolulu, Hawaii, Dec. 10-11, 1999

Herewith are three pages of testimony submitted on behalf of *Na Pua o Lota Kapuaiwa* for consideration in the reconciliation process per the 1993 Apology Resolution. Included also is the completed information form.

This is a necessary process as the Native Hawaiians and their Nation continue to heal. For too long has our plight been ignored. I am looking forward to actively participate in the hearings and the roundtable discussions.

Thank you for your attention.

Nov. 22, 1999

FROM: Wilma H. Holi  
P. O. Box 368  
Hanapepe, Kauai, HI 96716  
Phone: (808)335-3520 (h)  
(808)338-6800 ext. 115 (w)  
e-mail: wholi@k12.hi.us

TO: Assistant Secretary M. John Berry,  
c/o Document Management Unit  
Department of the Interior  
1849 C Street, N.W., Mailstop 7229  
Washington, D.C. 20240  
(Fax: 202-208-3230)

RE: RECONCILIATION HEARINGS WITH NATIVE HAWAIIANS

I begin my testimony by asking my ancestors for their permission to mention them, and to represent their voice in the reconciliation process (the genealogy will be recited at the reconciliation hearing in Honolulu).

Efforts to bind Hawaii and the United States began well before the final coup in 1893. The seeds were planted early on as the missionaries ingratiated themselves with the monarchs. The evolution begins, and with time, the pace escalates until it culminates into a revolution. Changes in the geopolitical landscape begins with the religion, the abolition of the kapu, and the promulgation of a western form of democracy that results in a constitutional monarchy. The need by the Americans to secure land in fee simple results in the Great Mahele. The seeds germinate as these pseudo-Hawaiian subjects secure influential positions in the monarchical cabinet, government office and as jurist. Concurrently, they maintain or establish familial and political connections to the politicians of the east coast (United States), in particular the state of Maine. There is talk of annexation to the United States.

*testimony submitted by Wilma H. Holi*

During the reign of Kamehameha IV, who is pro-British, the Americans realize that their future in the Hawaiian Islands are tenuous. However, it is during the reign of Lot Kapuaiwa, His Majesty Kamehameha V, that the attitude of anti-Hawaiian monarchical rule is laid by the pseudo-Hawaiians. The haole elite were conspiratorial, greedy, held deep contempt for the native Hawaiian culture and monarchy, all the while further developing and reinforcing their alliance with the United States. The Constitution of 1864 is promulgated in Lot's attempt to return power to the monarchy. It is the last legal constitution of the Hawaiian Kingdom.

Culturally, it is very Hawaiian to recite stories (mo'olelo) of the past. The story I am about to share has been closely guarded by the family until the opportunity presents itself that the descendants/heirs of Lot Kapuaiwa can assert their claim against the United States government through its representatives. (During the public testimony portion of the hearing, I may relate the stories of how my ancestors, including my grandfather, had to go into hiding and flee from the spies that were hunting down the heirs of Lot Kapuaiwa). In contrast to the myth that has been perpetuated for so long, there are heirs to the Kamehameha dynasty. I am an heir, lawfully begotten of His body. I am the great-great-great granddaughter of Lota Kapuaiwa, His late Majesty Kamehameha V.

The descendants of His late Majesty Kamehameha V, under the name of Na Pua o Lota Kapuaiwa, seek to establish through the reconciliation process, diplomatic ties that will result in the restoration of a sovereign Hawaiian Kingdom. It is our position that the diplomatic ties should be negotiated through the U.S. State Department through its Secretary, Madeline Albright. The Native Hawaiians are a political class of people who belonged to an independent nation and signed treaties with other nations.

The efforts of the Native Hawaiian leaders in the petition of the anti-annexation movement reinforced the belief that the Native Hawaiians desired to remain a

sovereign nation. That belief remains, and provides some of the impetus as the Native Hawaiian continue to discuss the issue of self-determination. Moreover, we demand indigenous control of the land and government, in particular the 1,800,000 acres of crown, government and public lands that was ceded by the Republic of Hawaii to the United States, and then through statehood to the State of Hawaii.

There is much *'eha* and *kaumaha* that the indigenous Native Hawaiians have endured over these generations. It is hoped that with the efforts put forth by this generation through the reconciliation process, that all future generations will live on free of the burden of our past. "*Ua mau ke ea o ka 'aina i ka pono*".

1. Name: Lela M Hubbard  
Address: 99-407 Aiea Hgts Drive  
Aiea HI 96701  
  
Daytime phone number: (808) 487-2311  
Fax number: Same - Call 1st  
E-mail address: \_\_\_\_\_

2. Will you be representing a Native Hawaiian organization?  
X yes \_\_\_\_\_ no

- a. Please provide the name and mission of your organization:

*Na Koa Ikaika upholds Hawaiian rights and works for the betterment of Hawaiians. We have been working to rebuild our Hawaiian Nation for over ten years.*

- b. How large is your organization's membership? 30 chara member

- c. Please provide your organization's address:

99-407 Aiea Hgts Drive  
Aiea, HI 96701

3. Which topic(s) would you like to address:

December 10, 1999

- \_\_\_\_ Native Hawaiian Housing  
\_\_\_\_ Native Hawaiian Health and Education  
\_\_\_\_ Native Hawaiian Culture and Economic Development  
\_\_\_\_ Hawaiian Land and Natural Resources

December 11, 1999

- X Reconciliation Process  
X Political Relationship

Na Koa Ikaika  
Lela M. Hubbard  
99-407 Aiea Hgts. Drive  
Aiea, HI 96701  
(808) 487-2311  
November 22, 1999

TESTIMONY ON RECONCILIATION  
EAST-WEST CENTER, UH  
December 11, 1999

Reconciliation can occur only when the United States treats Hawaiians with true dignity and respect. Moreover, as delineated in numerous documents as well as American law, Hawaii was illegally acquired. What price should be established for the theft of a nation, for the shattering of its true government? What price the disenfranchisement of the Hawaiian citizens? What price the loss of our lands and natural resources?

The State of Hawaii has deliberately avoided a complete inventory of the 1.8 million acres that were ceded to the United States in the Newlands Resolution. These Ceded Lands were originally to benefit the "inhabitants of the Hawaiian Islands" interpreted by many scholars to mean the Native Hawaiians but currently this land trust has become a public trust in which native Hawaiians derive 20% of whatever revenue the State is willing to dole out to its wards. Why has the federal government never challenged this injustice? Why has there never been an investigation to see how much the native Hawaiians and Hawaiians are benefiting from this trust? There should be an independent inventory of these lands which includes a title search and an appraisal of these lands and natural resources. Moreover, the United States should insist that even if Ceded Lands are transferred to a State entity they remain a part of the land trust.

Besides the land inventory a study of the revenues generated by the State need to be considered as these would have been the revenues of the Hawaiian Nation. TO BEGIN WITH THE UNITED STATES SHOULD BE PAYING THE HAWAIIANS A MINIMUM OF \$ 10 BILLION IN PERPETUITY FOR THIS MASSIVE FRAUD. See Exhibit from Hawaii Data Book.

Thirdly, to facilitate true self-determination the United States should set up a fund for education on re-establishing our Hawaiian Nation. Currently education reflects the views of Paepae Hanohano chaired by Trustee Mililani Trask. We are uncomfortable that this OHA entity has the only funds for nation building. We do not want to be stampeded into anything and feel that until 51% of the Hawaiians agree on actions we can not say anyone has a mandate from the people. The delegates to the Aha Hawaii Oihi, charged with creating constitutions to share with the people, were elected by only 9000 voters out of a potential electorate of 140,000. There are other groups pursuing self-determination.

Fourthly, to insure that true self-determination occurs in Hawaii, will the United States also submit a request ( and pay) to have neutral observers from the United Nations involved in overseeing the integrity of the self-determination process? ANY DECISIONS ON NATIONHOOD MUST BE SUBMITTED TO A VOTE OF THE HAWAIIAN PEOPLE, ESPECIALLY ANY CHANGES IN THE CEDED LANDS TRUST.

Unfortunately millions of dollars to improve the health, education, economic status of the Hawaiians have not reached enough Hawaiians but have been very beneficial to the non-profits who have handled these monies—particularly in the health field. It would probably be better if the U.S. would simply subsidize health insurance and allocate other funds for research and development in that field. Scholarships should be available not only for post-secondary education but also for every educational level. Why must students wait to be reimbursed? This means poor students will never have an opportunity to attend college. The reading level in Hawaiian areas is abominable; our elementary students are thus set up to be drop outs. What happens to those federal funds? There is a need for economic development in under-productive areas, but it appears that those who can manipulate the grant process are the ones who benefit—the very few out of the many. These inadequacies could be better addressed by a Hawaiian Nation where there would be long range planning as well as checks and balances. Until that occurs there should be more participation by grass-roots individuals who are selected at random or who volunteer and who would review self-determination actions; they should be a group of 20 from all islands to act as a check and balance system. Lastly, what will the United States do to insure Hawaiian rights to water, to the ocean and its resources, other gathering rights, our rights to preserve our cultural treasures and our rights to practice our traditional religion?

We Hawaiians have a unique political status. We had a nation recognized world-wide with many treaties. Will the U.S. pass legislation which truly enhances the self-determination process under international law whereby we have the choice to be more than a domestic Indian nation? We also would expect that any legislation written would involve input from a wide spectrum of Hawaiians.

Mahalo for this opportunity to address you.



Lela M. Hubbard





# University of Hawai'i at Mānoa

## Department of Sociology

Social Science Building 247 - 2424 Maile Way - Honolulu, Hawai'i 96822

Telephone: (808) 956-7693 - Facsimile: (808) 956-3707

December 9, 1999

Ed Thompson  
Office of the Assistant Secretary for  
Planning, Management and Budget  
U.S. Department of Interior  
1849 C. St., N.W.  
Washington, D. C. 20240

Dear Mr. Thompson:

I am sending you a copy of the recommendations from the University of Hawaii at Mānoa Commission on Diversity relating to the reconciliation efforts between the United States government and the Native Hawaiian people.

Copies of these recommendations were also submitted to U.S. representatives conducting reconciliation hearings in Honolulu on Dec. 10 and 11.

The Commission hopes that you will include these recommendations in the official record of the written testimony submitted at the hearings and are also able to implement them.

Respectfully submitted,

Kiyoshi Ikeda, Convener  
Commission on Diversity  
and  
Professor of Sociology

cc: President Kenneth P. Mortimer  
Senior Vice President Dean O. Smith  
Vice President Doris M. Ching  
Director of Hawaiian Studies Lilikala Kame'eleihiwa

December 9, 1999

**RECOMMENDATIONS FROM THE UNIVERSITY OF HAWAI'I  
AT MĀNOA COMMISSION ON DIVERSITY FOR A FEDERAL INITIATIVE  
TO ENABLE INNOVATIVE PROGRAMS ON THE MĀNOA CAMPUS  
AS PART OF RECONCILIATION EFFORTS BETWEEN  
THE UNITED STATES AND THE NATIVE HAWAIIAN PEOPLE**

The University of Hawai'i at Mānoa Commission on Diversity has the responsibility to identify issues and support policies and practices that ensure a community that is inclusive and diverse on the Mānoa campus, the only Carnegie I research institution in Hawai'i.

The Commission, appointed by the University of Hawai'i President, is composed of students, staff and faculty. This statement represents the recommendations of the Commission on Diversity and is not the official view of the University of Hawai'i.

To fulfill this responsibility, the Commission on Diversity recommends that the federal government fund initiatives in support of reconciliation efforts because of:

1. the manifest deprivations endured by the Native Hawaiian people resulting from the illegal overthrow of the Kingdom of Hawai'i that was documented by Congress in 1993 in "The Apology to Native Hawaiians" and signed by President Clinton as Public Law 103-150,
2. the 1.8 million acres of the Kingdom of Hawai'i's crown, government and public lands that "The Apology" documents were ceded "without the consent of or compensation to the Native Hawaiians or their sovereign government" and the fact that a portion of these 1.8 million ceded acres while under federal jurisdiction was designated for what is now the University of Hawai'i, which thus gives rise to a special obligation of this public institution to the first people of Hawai'i.

These historic federal initiatives as related to the Manoa campus should provide whatever funds or other resources to:

1. insure that every Native Hawaiian shall have a reasonable opportunity to graduate from the University of Hawai'i by providing adequate resources for recruitment, retention and for graduate studies and research opportunities,
2. provide expanded support for curriculum development and research in Native Hawaiian studies,
3. provide resources for curriculum development and instruction pertaining to the first people of Hawai'i in other academic disciplines,

4. mandate and provide the means for scholars, researchers and community-service practitioners to inaugurate programs to foster the early development and education of Native Hawaiian children,
5. mandate and provide the means for scholars and researchers to develop and research innovative programs that elevate the health, education and socioeconomic status of Native Hawaiians,
6. mandate and provide the means that enable scholars, researchers and community-service practitioners to educate and train those Native Hawaiians who now comprise disproportionate numbers within the state corrections system,
7. to mandate and to provide the means for scholars to develop and research programs, to hold community forums and international conferences and to produce educational media products that explain the historic need for these unique reconciliation efforts or that exemplify the spirit for which Native Hawaiians are renowned.

The Commission on Diversity urges the representatives of the U.S. Departments of Justice and Interior to begin efforts to design and develop historic initiatives leading to a long overdue reconciliation between the people and government of the United States and the first people of Hawai'i.

Thank you for considering these recommendations.

Respectfully submitted,

Kiyoshi Ikeda, Convener  
President's Commission on Diversity  
University of Hawai'i at Mānoa  
and  
Professor of Sociology

cc: President Kenneth P. Mortimer  
Senior Vice President Dean O. Smith  
Vice President Doris M. Ching  
Director of Hawaiian Studies Lilikala Kame'eleihiwa

December 9, 1999

RECOMMENDATIONS FROM THE UNIVERSITY OF HAWAII  
AT MĀNOA COMMISSION ON DIVERSITY FOR A FEDERAL INITIATIVE  
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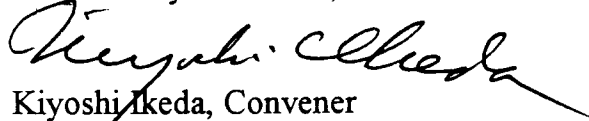
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6. mandate and provide the means that enable scholars, researchers and community-service practitioners to educate and train those Native Hawaiians who now comprise disproportionate numbers within the state corrections system,
7. to mandate and to provide the means for scholars to develop and research programs, to hold community forums and international conferences and to produce educational media products that explain the historic need for these unique reconciliation efforts or that exemplify the spirit for which Native Hawaiians are renowned.

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Thank you for considering these recommendations.

Respectfully submitted,



Kiyoshi Ikeda, Convener  
President's Commission on Diversity  
University of Hawai'i at Mānoa  
and  
Professor of Sociology

cc: President Kenneth P. Mortimer  
Senior Vice President Dean O. Smith  
Vice President Doris M. Ching  
Director of Hawaiian Studies Lilikala Kame'eleihiwa

**Mo'opuna o Kamehameha Society**

4113 Nu'uanu Pali Drive

Honolulu, Hawaii 96817

November 9, 1999

Dear Mr. Berry and Mr. Norman:

I am Rebellite Kawena Johnson Hawaiian, a descendant of Kamehameha the Great, feudal ruler and owner of ALL the Hawaiian Archipelago.

I am writing on behalf of myself, my family, and my blood relatives all descended from Kamehameha the Great, proveable by DNA testing.

The lands of Hawaii were later divided by Kamehameha III into the CROWN LANDS and the GOVERNMENT LANDS.

Kamehameha III set aside the CROWN LANDS for himself and his heirs and his family, forever.

The GOVERNMENT LANDS were set aside for the use and governance of the Hawaiian Islands, and the people.

These two distinct groupings of Lands are euphemistically today called "The Ceded Lands" in an effort to disguise the legal reality.

Myself and my relatives, the MO'OPUNA (children, descendants) O (of) KAMEHAMEHA, are the legal owners of the CROWN LANDS, by blood from Kamehameha the Great, proveable by DNA testing.

The CROWN LANDS were illegally taken through force of arms of the United States of America [USPL 103-150].

The term "CEDED LANDS" should cease as of this day, as the Lands were never ceded and they are the CROWN and GOVERNMENT LANDS that we are speaking of.

We ask for the return of the Crown Lands to the class of Hawaiian citizens that are of the BLOOD of KAMEHAMEHA, compensation for lands not returned to be divided equally among the living heirs and descendants of Kamehameha the Great, the Mo'opuna o Kamehameha.

Thankyou for your help in this wonderful endeavor.

[Attachments: Family Registry (Certification) by Applicant signing above].

U.S. DEPARTMENT OF THE INTERIOR

12 DEC 99

ATTN. ED THOMPSON

RE- HAWAII

DEAR SIR

39 YEARS IN HAWAII HERE IS MY TWO CENTS WORTH OF KNOWLEDGE: HAWAII WAS PARADISE UNTIL 1969 WHEN THE JAPANESE AMERICANS TOOK OVER THE STATE GOV. THEY ARE GOOD PEOPLE BUT IT IS CLEAR THEY ARE INCAPABLE OF BEING FAIR IN THE DISTRIBUTION OF STATES MONEY: THAT IS CLEARLY SHOWN BY SIMPLY GETTING YOUR COMPUTER TO LOOK INTO THE NEWSPAPERS STORIES OF ENDLESS "NON-BID CONTRACTS GIVEN ONLY TO AMERICAN JAPANESE: HAWAIIANS AND WHITES HAD VERY LITTLE CHANCE TO GET AT ANY OF THIS MONEY, NEEDLESS TO SAY, NO JOBS, NO MONEY, NO SUPPORT FOR THE FAMILY WHICH LEADS TO BROKEN HOMES AND ALL THE STRESS AND ANGER AND PROBLEMS. SADDLY IF YOU LOOK AT "THE LETTERS TO THE EDITOR" IN THE NEWSPAPER YOU WILL SEE A CLEAR PATTERN OF LETTERS SAYING "\*\*\*&¢\$\* MAINLAND HOLES STOLE YOUR LAND" ALL SIGNED BY MOSTLY JAPANESE SOUNDING NAMES: BRAINWASHING THE POOR HAWAIIANS TO GO AGAINST THE U.S. WHITE MAN. ALL THE WHILE THE A.J.A.S WERE HELPING THEMSELVES TO ALL THE STATES MONEY: I KNOW CONGRESS GAVE SEN. DAN. K. INOUE A TON OF MONEY TO HELP THE HAWAIIAN PEOPLE BUT IT SEEMS THAT MONEY WAS MOSTLY LOST TO "SUPERVISORS" AND DID NOT MAKE MUCH OF A DENT ON THE HAWAIIANS PROBLEMS.

SIXTEEN YEARS I FEED HOMELESS ANGRY HAWAIIANS AT MY GOD IS LOVE LUNCHWAGON OUT OF MY POCKET, I SAW THE PAIN, THE LAST 15 YEARS I CREATED A GOLF CLUB THAT PRES. CLINTON TOLD SPORTS ILLUSTRATED "HE HAD BEEN CARRYING A JUICED UP MASTER BLASTER DRIVER" YOU WOULD THINK THAT THE JAPANESE AMERICANS WOULD HAVE BOUGHT MY DRIVER, BUT NO THEY PUT UP A WALL THAT HAS KEPT ME ALMOST OUT OF BUSINESS: A AUSTRALIAN MINISTER WHO WANTED TO SELL MY DRIVERS SAID, "GET RID OF YOUR JAPANESE ANSWERING SERVICE" A FLORIDA MAN SAID "GET RID OF THAT SERVICE THEY ARE COSTING YOU BIG MONEY" A PRO SHOP IN OLAHUA SENT ME A LETTER TO JAROG MASTER BLASTER THAT WAS SENT BACK TO HIM WITH "RETURN TO SENDER NO LONGER AT THIS ADDRESS" THE PRO SHOP OWNER FLEW TO HAWAII AND SHOWED THE RETURNED LETTER WITH TWO CHECKS IN IT FOR TWO GOLF CLUBS SOLD: I WAS OUT OF BUSINESS AS FAR AS HE COULD TELL!!!!!! THIS IS ONLY THE TIP OF THE ICEBERG!!!!!! CHECK IT OUT: 30 THOUSAND SMALL BUSINESS WENT BANKRUPT THE LAST COUPLE OF YEARS: 81,000 U.S. RESIDENTS MOVED OUT OF HAWAII DURING THE SAME TIME: THE JAPANESE CLAIMED "ECONOMIC CRISIS" THE ONLY CRISIS FOR THEM WAS STANDING IN ~~LONG LINES~~ WAITING FOR TEE TIMES AT THE MOST EXPENSIVE GOLF COURSES!!

THE HAWAIIAN KINGS LOOKED TO AMERICA TO PROTECT HAWAII FROM THE JAPANESE: YOU HAVE NOT LIVED UP TO THEIR FAITH IN YOU: THE HAWAIIANS ARE NOT THE ONLY ONES TO SUFFER GROSS INJUSTICE, I BELIEVE THE STATE OF HAWAII OWES ME FOR ALL THE SUFFERING I WAS PUT THROUGH. A THREE INCH FILE AT THE KEEHI SMALL BOATS HARBOR WILL SHOW JUST HOW UNFAIR I WAS TREATED..

MAY GOD BLESS YOU AND US IN HAWAII ALOHA KE AKUA

*Ed Thompson (God is Love)*

DEPARTMENT OF INTERIOR  
ASSIST. SEC. JOHN BERRY  
C/O DOCUMENT MANAGEMENT UNIT  
1849 C ST. NW  
MAILSTOP: 7229 WASHINGTON, D.C. 20240

IN RESPONSE OT THE RECONCILIATION MEETINGS HELD HERE IN HAWAII

THE INDEPENDENCE OF HAWAII ..... THE UNITED STATES OF AMERICA AND THE HAWAIIAN NATION SHOULD BEGIN NOW.....WE WANT TO HAVE AN AMBASSADOR IN THE UNITED NATIONS FROM OUR GOVERNMENT AS A NEWLY CREATED NATION SPONSORED BY THE UNITED STATES OF AMERICA.

1. TO ADDRESS THE ISSUE CONCERNING HAWAIIAN HOME LANDS:

I PROPOSE THE FOLLOWING RESOLUTION TO RESOLVE THE EXISTING PROBLEM. THE HAWAIIANS ON THE LIST SHOULD BE GIVEN AN AMOUNT EQUAL TO THE PRICE OF A MEDIUM SIZED HOME IN HAWAII ( PRESENTLY THE AMOUNT RANGES BETWEEN \$300,000 TO \$350,000 U.S. DOLLARS). THE AMOUNT SHOULD BE TAX FREE FOR EACH RECIPIENT. THIS AMOUNT WILL BE A ONE TIME PAYMENT BY THE GOVERNMENT TO EACH HAWAIIAN WHO IS ON THE CURRENT LIST FOR HAWAIIAN HOMES TO SETTLE THEIR CLAIM AGAINST THE U.S.. I BELIEVE MY PROPOSAL WILL SERVE AS A QUICK AND SATISFACTORY SOLUTION FOR THE HAWAIIANS IN NEED OF HOMES. THERE IS NO GOOD REASON WHY A HAWAIIAN SHOULD BE HOMELESS ON THEIR OWN LAND. SINCE OUR LAND WAS ILLEGALLY TAKEN; SATISFYING MY PROPOSAL IS THE LEAST THAT THE UNITED STATES GOVERNMENT CAN DO FOR THE HAWAIIAN PEOPLE, WHO HAVE BEEN DISPLACED AS A DIRECT RESULT OF THE ILLEGAL ACTIONS OF THE UNITED STATES. THE SETTLEMENT SHOULD BE OFFERED TO INDIVIDUALS IN THE YEAR 2000.

2. TAX EXEMPT STATUS FOR ALL HAWAIIANS WITH A MINIMUM OF 1/32 BLOOD QUANTUM REQUIREMENT, TO BE MADE EFFECTIVE FROM THE YEAR 2000.

3. FREE HEALTH AND DENTAL CARE.

4. FEDERAL LOW INTEREST BUSINESS LOANS TO NATIVE HAWAIIANS (1% INTEREST RATE) RANGING UP TO AND INCLUDING A \$1,000,000 U.S. DOLLARS.

5. AS A HAWAIIAN NATION A 2 % TAX ON ALL FORMS OF COMMERCE TAKING PLACE IN,ON,ABOVE,OR UNDER THE HAWAIIAN ISLANDS.

6. A RETURN OF CONTROL OF ALL HARBORS TO THE HAWAIIAN NATION TO MANAGE, REGULATE, AND OVERSEE ALL PHASES OF OPERATIONS TO PRODUCE INCOME FOR OUR PEOPLE. MONIES GENERATED GOING DIRECTLY TO THE HAWAIIAN NATION NOT THE STATE OF HAWAII GOVERNMENT.

7. THE CONTROL OF HAWAII'S FISHING GROUNDS MUST BE ADMINISTERED BY OUR NEW NATION. ANY NEW REGULATIONS AND TREATIES TO BE ESTABLISHED TO PROTECT THESE GROUNDS WILL BE ENFORCED BY THE UNITED STATES NAVY USING GUIDELINES SET BY THE HAWAIIAN NATION. THE HAWAIIAN ISLAND ARCHIPELAGO WITH (200 MILE LIMITS). ALL MONIES EARNED TO BE FOR THE HAWAIIAN NATION.

8. ALL HAWAIIAN LANDS FORMERLY AND CURRENTLY HELD AND UTILIZED BY THE UNITED STATES OF AMERICA MUST BE RETURNED TO THE NATION OF HAWAII, AND A SUITABLE RENTAL AGREEMENT WORKED OUT BETWEEN THE HAWAIIAN NATION AND THE U.S. GOVERNMENT, WITH ALL MONIES TO BE PAID DIRECTLY TO THE HAWAIIAN



NATION-ELIMINATING THE NEED FOR THE STATE GOVERNMENT AS THE MIDDLEMAN. THE STATE GOVERNMENT HAS PROVEN TO BE A HINDERANCE IN THE PAST FOR THE HAWAIIAN PEOPLE, BECAUSE OF THEIR HABITUAL DIVERSION OF FUNDS EARMARKED FOR THE HAWAIIANS. THEY HAVE REPEATEDLY NEGLECTED TO PAY MONEY FOR CEDED LAND TO OUR PEOPLE, AND CONTINUE TO RULE OHA WITH AN 'IRON FIST'. THE CURRENT SITUATION IS TOTALLY UNACCEPTABLE AND CANNOT BE ALLOWED TO CONTINUE.

THE PRECEDING IS A REASONABLE AND EQUITABLE SOLUTION TO THE CURRENT PROBLEMS THAT FACE THE HAWAIIAN PEOPLE. WE HAVE WAITED LONG ENOUGH TO HAVE THE MATTER RESOLVED. THE MILLENNIUM IS THE YEAR FOR THE SOLUTION TO BECOME A REALITY.

SINCERELY,  
KEOKI M. HAUOLI



3525 N BURNS PL  
MAKAWAO, HI 96768

His Excellency

*Imakaloaihenenui*

3901 Peacock Lane  
Modesto, CA 9535

*Day 2*

*Reconciliation*

November 12, 1999

Assistant Secretary John Berry  
c/o Document Management Unit  
The Department of the Interior  
1849 C Street, NW Mailstop -7229  
Washington, DC 20240

Dear Mr. Berry:

I am Imakaloaihenenui, great grand nephew of King David Kalakua and Queen Lili'uokalani, last ruling Queen of Hawaii, heir apparent, and by the Grace of God King of the Hawaiian Kingdom under the Hawaiian Constitution, I send you greetings.

It is my understanding that both yourself and Mr. Van Norman will be visiting Hawaii for the purpose of implementing reconciliation efforts as called for in P.L. 103-150, the Apology Resolution.

It has taken the government of the United States over 6 years to start the process of reconciliation with the Hawaiian people. But as the saying goes, better late than never.

I am aware that both of you will be discussing the following issues:

December 10, 1999

- ☐ Native Hawaiian Housing
- ☐ Native Hawaiian Health and Education
- ☐ Native Hawaiian Culture and Economic Development
- ☐ Hawaiian Land and Natural Resources

December 11, 1999

- ☐ Reconciliation Process
- ☐ Political Relationship

It is good to speak about the first four subjects, as the American Government has all but destroyed all that belongs to Hawaii, mostly the land. Americans have no consideration or understanding about the importance of land until they destroy it then look for somewhere else to destroy. Our education was the best to be had while I was in school but now the educational systems has gone down drastically.

However, the most important subject that I am concerned about is the diplomatic relationship between your country and my country. As far as history is concerned and as far as legal documentation is concerned, the annexation of Hawaii as a Trust Territory and the final step of making Hawaii a State, does not exist. There were over 30,000 signatures of Hawaiians that refused to have Hawaii annexed to the United States. When the Hawaiian Government was illegally overthrown by the United States and the self proclaim Republic Government of Hawaii took possession of Hawaii, everything remained in tack. The treaty that my nation had with your country in 1850 still stands as law. The Hawaiian people are still subjects of the Hawaiian Government and not that of the United States. Everything that is being done now in Hawaii under the leadership of the United States Government is illegal under court laws and that of the International Laws.

The treaty of 1850 between your country and my country cannot be erased from record by a Joint Resolution, which was a tack on to the bill of annexation of Hawaii. A Joint Resolution does not and cannot supercede a treaty that is law. It was agreed, in that treaty, that any American residing in Hawaii were bound by the law and statutes of that government just as my people are bound by the law and statutes of the United States when in America. It was also agreed in that treaty that notice of termination of the treaty was to be given notice in writing to the other nation. That did not happen and could not have happened as the

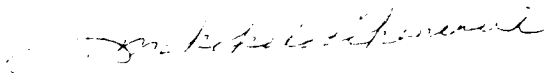
self proclaim government had proclaimed itself as the now government. By doing that, the United States of America could not legally tell the Queen that they wanted to terminate the treaty.

The Queen realizing this presented her case to the State Department. She had also, before the overthrow went into affect, presented her plea to President Cleveland who did declare that what America was doing was wrong, but the United States Congress went right ahead and passed the Joint Resolution. You have much to consider when coming to Hawaii Mr. Berry.

I as King of the Hawaiian Kingdom and bound by the Constitution of said Kingdom do hereby recommend that in the reconciliation process, this issue becomes the foremost focal front of discussion. All other issues will then fall into place.

Let it be known, that I, Imakakoloaihenenui, King of the Hawaiian Kingdom under the Hawaiian Constitution will settle for nothing less in the reconciliation, other then the full return of my government under my leadership.

Sincerely,

A handwritten signature in cursive script, appearing to read "Imakakoloaihenenui", written in dark ink.

Imakakoloaihenenui  
Ka Mo'i  
(The King)